IMPLEMENTATION OF RESOLUTION 18

(A Resolution Concerning an Amendment to the Alberta Act)

Alberta
MUNICIPAL AFFAIRS

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Introduction

Purpose of tabling

The drafts included in this document are tabled for public comment. Neither the drafts nor the concepts in them should be regarded as being in final form.

Future changes

Public comment and further consideration of the many issues involved in the implementation of Resolution 18 will undoubtedly result in changes to the drafts when they are introduced in Bill form in the Legislative Assembly.

The tabling of this document should not be regarded as the irrevocable position of the Provincial Government or the Federation of Metis Settlements. The drafts propose one means of implementing Resolution 18. It is now time for public comment on the proposal.

Public comment solicited

By tabling the document comments on the draft are solicited.

Without prejudice

The Discussion Drafts have been prepared and are tabled on the basis that they do not, nor are they intended to, affect the determination of existing Metis settlement litigation.

A Resolution Concerning an Amendment to the Alberta Act

The Honourable Peter Lougheed
Premier

June 3, 1985

Alberta
GOVERNMENT OF ALBERTA

RESOLUTION CONCERNING AN AMENDMENT TO THE ALBERTA ACT

Whereas section 43 of the Constitution Act, 1982, provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

And Whereas the Constitution of Canada includes The Alberta Act;

And Whereas Metis Settlement lands have been set aside under the provisions of the Metis Betterment Act to better the general welfare of the Metis population of Alberta;

And Whereas the Metis people of Alberta, and particularly those members of settlement associations who have developed land on Settlements, desire protection of a land base for themselves and for the benefit of future generations for communal use;

And Whereas Metis people seek to enlarge their jurisdiction over the management of Metis Settlement lands and the governance of their own affairs;

And Whereas if enlarged jurisdiction is to be achieved, Metis people have the responsibility to determine distinctive methods and institutions for such management and governance;

And Whereas the Government of Alberta and representatives from the Metis Settlements worked together, under the chairmanship of Dr. J.W. Grant MacEwan, to address the current needs and concerns of Metis people, particularly those who have chosen to live on and develop the Settlements;

BE IT RESOLVED THAT, THE LEGISLATIVE ASSEMBLY:

1. Endorse the commitment of the Government of Alberta to grant existing Metis Settlement lands now known as Big Prairie (Peavine), Caslan (Buffalo Lake), East Prairie, Elizabeth, Fishing Lake, Keg River (Paddle Prairie), Kikino, and Utikuma Lake (Gift Lake), to the Metis Settlement Associations, or to such appropriate Metis corporate entities as may be determined, to be held on behalf of the Metis people of Alberta;

2. Endorse the grant of existing Metis Settlement lands:
   a) In fee simple reserving thereout all mines and minerals;
   b) Without prejudice to existing Metis Settlement litigation;
   c) Without affecting existing interests of third parties or certain specified interests of the Province of Alberta; and
   d) Subject to the continuing legislative authority of the Province of Alberta;

3. Recognize the principle that, as a first step toward the grant of existing Metis settlement lands, it is the responsibility of the Metis to define and propose:
   a) Fair and democratic criteria for membership in settlement associations and for settlement lands allocation to individual members of settlement associations; and
   b) The composition of democratic governing bodies for the management and governance of Metis Settlements;

4. Endorse the commitment of the Government of Alberta to propose a revised Metis Betterment Act to the Legislative Assembly, once appropriate criteria have been established for Settlement membership, land allocation and the composition of governing bodies capable of holding land;

5. Endorse the commitment of the Government of Alberta to introduce, once a revised Metis Betterment Act has been enacted, a resolution to amend the Alberta Act by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada to grant an estate in fee simple in existing Metis Settlement lands to the Metis Settlement Associations or to such appropriate Metis corporate entities as may be determined on behalf of the Metis people of Alberta, in accordance with this resolution.

IMPLEMENTATION OF RESOLUTION 18

GENERAL OVERVIEW

The Discussion Drafts in this document would implement Resolution 18 by

1. the issuing of 8 Letters Patent which will give legal title in the settlements to "Okimawiwin" (a corporation representing the Metis collectivity on the settlements) while protecting existing third party interests and specified interests of the Province. The Letters Patent would also convey to Okimawiwin the legal title to

- beds and shores
- road allowances
- roads and highways.

By conveying legal title of all these things to Okimawiwin, the concept of territorial integrity of settlement land is established.

Provincial interests will be protected by retaining mines and minerals and water in Provincial ownership and by continuing roads and highways as public rights of way. Third party interests will be protected through the Letters Patent and by legislation.

2. an amendment to the Alberta Act (by a resolution of the Alberta Legislative Assembly and the House of Commons of Canada and Senate) which will prevent anyone, including the Crown, from taking freehold title from Okimawiwin without its consent. Interests less than freehold can be acquired.

Provincial legislative jurisdiction over the land and activities on it will be retained but cannot conflict with the Letters Patent. The result is that settlement land will be constitutionally protected.

This protection will be unique in Canada.

3. a Metis Settlements Act which will establish elected governing bodies, provide for fair and democratic criteria for membership and land allocations (with a right of appeal to an independent Metis Appeals Tribunal) and provide for the governance of the settlements by elected councils.

The Discussion Drafts provide a "made in Alberta" approach to the aspirations of the Metis people on the settlements while protecting third party and Provincial interests. At the same time the rights of off settlement Metis to apply for membership on the settlements are guaranteed.

The institutions suggested in the Discussion Drafts, and the protection provided, would be distinctive and unique.

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PROPOSAL FOR LETTERS PATENT

Proposal for Letters Patent

ALBERTA

Lieutenant Governor

GREAT SEAL

ELIZABETH THE SECOND, by the grace of God, of the United Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith

Deputy Attorney General

To all to whom these Presents shall come - GREETING:

NOW KNOW YE that by these Presents We do grant, convey and assure unto the Metis Settlements Okimawiwin an estate in fee simple in all that parcel of land described as:

(the land to be conveyed will be described here)

including

(a) the beds and shores therein of all permanent and naturally occurring bodies of water and of all naturally occurring rivers, streams, watercourses and lakes,

(b) the land therein that is or may be set aside for road allowances by a survey under the Surveys Act,

(c) the land therein presently held or occupied by Our Government of Alberta for or in connection with roads and highways referred to in Clause 4 hereof, and

(d) the land therein presently held or occupied by Our Government of Alberta for or in connection with the fixtures and improvements referred to in Clause 5 hereof, To Have and to Hold the aforesaid parcel of land unto the Metis Settlements Okimawiwin, its successors and assigns forever, but nevertheless Saving, Excepting and Reserving thereout

1 all mines and minerals (precious and base);

2 all water within the shores referred to above and all ground water;

3 all rights of fishery subject to the exercise of the Parliament of Canada of its legislative jurisdiction over inland fisheries;

4 all public rights of way for roads and highways as shown on Plans of record in the Metis Settlements Land Registry on the date hereof so long as required by Our Government of Alberta, which rights of way are dedicated as public highways and shall be under the direction, management and control of Our Government;

5 all fixtures and improvements placed or constructed in, on, over or under the land by Our Government of Alberta. together with a right of access to them and a licence to occupy and use a reasonable amount of land in connection with the use of each fixture or improvement so long as that land is required by Our Government;

6 all palaeontological resources and archaeological resources as defined in the Historical Resources Act;

7 all rights or interests less than freehold held on the date hereof by any persons in any part of the land granted hereby, whether arising pursuant to an agreement or enactment or by operation of law or equity, which rights or interests are not extinguished by these Presents but shall

continue until they expire, are terminated or otherwise end by agreement or by or pursuant to law of general or special application;

8 all parcels of land for which a certificate of title in fee simple is held by someone other than Ourselves.

It is a Condition hereof that if Our government of Alberta requires from the Metis Settlements Okimawiwin an interest less than freehold in any part of the land granted hereby and specifies the purpose for which it is required, the part of the land that is required and the interest sought in it, the Metis Settlements Okimawiwin shall provide it to Our Government, but if disagreement arises as to

(a) whether the part of the land that is required is properly required,

(b) the location or amount of land sought to be provided,

(c) the nature of the interest required, or

(d) the amount of compensation or to whom it is to be paid, the disagreement, or any issue with respect to the matter, shall be determined by the Court of Queens Bench of Alberta or in a manner agreed on between Our Government and the Metis Settlements Okimawiwin.

KNOW YE ALSO that these letters patent are protected by section 24.1 of the Alberta Act, a part of the Constitution of Canada.

In Testimony Whereof We have caused these Our Letters to be made Patent and the Great Seal of Our Province of Alberta to be hereunto affixed.

Witness Her Honour, Lieutenant Governor of Our Province of Alberta in Our City of Edmonton in Our said Province this ____ day of ______ 19____

By Command

Provincial Secretary

President of the Executive Council

PROPOSED ALBERTA ACT AMENDMENT

PROPOSED

CONSTITUTION AMENDMENT (ALBERTA) 19__

Alberta Act

1. The Alberta Act is amended by adding thereto, immediately after section 24 thereof, the following section:

24.1(1) In this section,

(a) "letters patent" means letters patent issued to Okimawiwin under the authority of the Metis Settlements Act (Alberta);

(b) "Okimawiwin" means the Metis Settlements Okimawiwin incorporated by the Metis Settlements Act (Alberta);

(c) "patented land" means land held by Okimawiwin pursuant to the letters patent.

(2) Neither the Government or Legislature of Alberta may revoke or alter the letters patent or dissolve Okimawiwin except with the agreement of Okimawiwin.

(3) The Government of Alberta may not acquire any estate or interest in all or any part of the patented land by expropriation, but nothing in this subsection prevents the acquisition of an interest less than freehold in any of the patented land in a manner provided in the letters patent.

(4) If, from time to time, under an Act of Alberta a person has or may acquire a power to expropriate or enter upon, use or take any estate or interest in land of another, the

statutory power may not be exercised with respect to the patented land unless an Act of Alberta specifically states that the power is to apply to the patented land, and may only be exercised to obtain an interest less than freehold, but this subsection does not apply to the existing right of any person that is preserved or protected by the letters patent.

(5) Except as provided in this section, the patented land is subject to the continuing legislative authority of the Legislature of Alberta and, without restricting the generality of the foregoing, the Legislature may

(a) provide by law for the prohibition and regulation of

(i) alienation of the patented land by Okimawiwin and encumbrancing thereof, and

(ii) development in, on, under and over beds and shores of water bodies and land that is or may be set aside as road allowance all as described in the letters patent, as well as the other land of Okimawiwin,

and

(b) enact such other laws, not inconsistent with this section, as it considers necessary or appropriate to give fuller or better effect to the purpose of the letters patent and this section.

Citation

2. This amendment may be cited as the Constitution Amendment (Alberta) 19___.

DISCUSSION DRAFT OF A PROPOSED METIS SETTLEMENTS ACT

Discussion Draft of a Proposed

Metis Settlements Act

Executive Summary

The discussion draft of a proposed Metis Settlements Act is divided into 14 Parts which can be summarized as follows:

Part 1 - Interpretation

This Part defines various words and expressions used in the discussion draft.

Part 2 - Settlements

This Part establishes as corporations the 8 existing settlements. The settlements will have the rights, powers and privileges of a natural person but certain of its authority will be limited. For example, agreements made by settlements must be approved by the Minister until the settlement is sufficiently capable of administering and committing funds without Ministerial involvement. It is anticipated that over the next 10 years the settlements, at a pace designed for each of them, will gradually take over agreement making authority for themselves.

Settlements will only be able to be dissolved by an Act of the Legislature.

Part 3 - Settlement Government

Each settlement will have a settlement council composed of 5 councillors.

The draft provides for a system of staggered elections, but the procedure for them will follow the Local Authorities Election Act with appropriate modifications.

Part 4 - Metis Settlements Okimawiwin

This Part establishes Okimawiwin composed of its officers and the councillors of every settlement council.

Okimawiwin will have power to enact policies that are binding on the settlement councils.

At least initially, the majority of Okimawiwin policies will be subject to a Ministerial veto. Other policies, those relating to hunting, fishing, trapping and gathering, which may conflict with provincial law (e.g., the Wildlife Act) must be approved by the Lieutenant Governor in Council by regulation.

Okimawiwin policies must be approved by at least 70% of the settlements that together represent at least 70% of the members of all the settlements.

Part 5 - Metis Appeals Tribunal

This Part establishes a Metis Appeals Tribunal composed of not more than 7 persons appointed in part by the Minister, and in part by Okimawiwin. The Tribunal will contain at least 2 persons who are not members of a settlement. The chairman will be appointed by the Minister from a list of nominees provided by Okimawiwin.

The Tribunal has a wide ranging authority over appeals respecting membership, land allocations, and a number of other matters specified in the draft.

An order of the tribunal may, with the consent of the court, be filed as a judgment or order of a court.

Part 6 - By-law Making Authority

Settlement councils will be empowered to make by-laws on the same kinds of subjects as municipal councils may make by-laws. Additional by-law making power is provided for the more traditional pursuits of the Metis, but by-laws on those subjects (e.g. hunting, fishing, trapping) will only be enacted when a policy of Okimawiwin is in place.

A unique feature of the by-law making power of settlement councils is that every by-law must be put to a vote of the members of the settlement and may only be passed by council if it is approved by the general membership.

Part 7 - Membership

The draft proposes that all members of a settlement association under the Metis Betterment Act retain their membership under the Metis Settlements Act. In order to provide a definitive membership list, the Minister and settlement councils will undertake a review of memberships and establish a definitive members list. If a dispute arises it will be referred to the Metis Appeals Tribunal.

The draft suggests a maximum 2 year freeze on memberships while the current lists are reviewed and updated.

Criteria for applications for new memberships are specified in the draft and require that an applicant be a Metis, 18 years old, resident for at least 6 months on a settlement, or a resident of Alberta for at least 5 years immediately preceding his or her application.

An Indian registered under the Indian Act (Canada) is not eligible for membership unless that person was registered as an Indian before he or she became 18 years old, resided on the settlement for a substantial period of his or her childhood, has a parent who is a member of the settlement and establishes that he or she is committed to Metis culture.

> (Note: The Federation of Metis settlements has under consideration the membership requirements and further advice is awaited from them.)

The draft contains provisions for establishing "Metis identity" and for an appeal to the Metis Appeals Tribunal if an application is refused.

Memberships can be terminated by a settlement council by-law if the member ceases to reside on the settlement and abandons his membership, or if the member has not resided on the settlement for 12 consecutive months or more, unless the member is on a leave of absence (e.g., for educational reasons).

If a membership is terminated the land alloted to the member reverts to the "pool" of land available for other members, subject to any right of a spouse or child to remain on the land. The rights of spouses and children will be protected. A member who is terminated may be entitled to compensation for improvements he or she has made to the land. If agreement cannot be reached, then the matter will be referred to the Tribunal for a decision.

Part 8 - Land in Settlement Areas

The draft proposes to establish a Metis Settlements Land Registry which will record all land holdings and protect third party and other interests through a system administered by the Province.

With the agreement of the Federation of Metis Settlements, it is proposed that land conveyed to Okimawiwin by letters patent not be sold, mortgaged or charged. Other dispositions (e.g., leases) will be governed through an Okimawiwin policy.

Part 9 - Subdivision of Settlement Areas

The Planning Act will not apply to the settlements and so a "Mini Planning Act" is proposed providing for the subdivision of land which can then be allocated to members and land use policies of Okimawiwin which would be implemented by land use by-laws.

Part 10 - Land Allocation in Settlement Areas

The draft protects certificates of occupancy issued under the Metis Betterment Act. Other allocations under the Metis Betterment Act are protected as long as the member continues the productive use of the land.

The draft provides for a process for new members to apply for land allocations and to be granted a provisional certificate which gives the member 5 years to improve the land, following which he may apply for a certificate of occupancy, the highest form of land tenure on the settlements. If a member is refused land, he or she may appeal to the Metis Appeals Tribunal.

There are limits on the amount of land that can be held by a member under a provisional certificate or a certificate of occupancy. Members may hold land by other means (e.g., a lease).

Part 11 - Financial Matters

The Minister is empowered to make regulations dealing with various financial and accounting matters of the settlements. Agreements may be entered into respecting the financial or funding arrangements for the settlements.

Settlement councils will have the same power and authority to assess the tax as a council of a municipality has under the

Municipal Taxation Act.

The draft proposes the establishment of a trust fund by agreement with the Minister, Okimawiwin and every settlement. The trust agreement will appoint trustees, and deal with the monies payable into the fund and expenditures from it for the basic purpose of protecting the collective interests of the settlement.

Part 12 - General

This Part contains a number of miscellaneous provisions concerning delegation of authority, general election dates, the appointment of an official administrator, and service of notices.

Part 13 - Transitional Provisions

The Part will provide for a transitional mechanism between the existing Metis Betterment Act and the new Act. This Part has still to be developed.

The draft contains other transitional mechanisms whereby for example, the Minister must approve settlement council by-laws for 3 years after the coming into force of the Act, agreements made by settlement councils must be approved by the Minister until a regulation is passed to say that Ministerial approval is not required. Ministerial regulations would permit special rules for the transition from the old to the new legislation.

The basic thrust of the transition is to provide a "bridge" from the existing Act to the new Act so that, in accordance with development plans that the settlements will be designing, a smooth transition is achieved.

The development of a land registry system, recording of land holdings, a review of memberships, preparation of settlement development plans and creation of a trust agreement are complex and time consuming tasks. This discussion draft suggests a framework for dealing with those issues but much detailed work remains to be done.

Part 14 - Consequential Amendments

There are many Acts which give municipal councils authority to make by-laws, and each of these must be reviewed to see whether a settlement council should have a similar power. There are also Acts which could, if no amendment were made, conflict with the guarantee that Okimawiwin remain the land owner of settlement land. These must be reviewed and amended if necessary.

The rights of spouses and children must be protected and consequential amendments to such Acts as the Dower Act and the Matrimonial Property Act, may be required. The amendments would be designed to protect the interests of spouses and children without derogating from Okimawiwin ownership of the land. Specific amendments will be the subject of discussion with the Federation of Metis Settlements over the coming months.

The existing Metis Betterment Act will be repealed and the new Act is proposed to come into force on proclamation.

PROPOSED METIS SETTLEMENTS ACT

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PART 1

INTERPRETATION

Definitions

1(1) In this Act,

(a) "approved budget" means a budget adopted by a settlement council that is approved by the Minister;

(b) "councillor" means a member elected or appointed to a settlement council and includes the chairman;

(c) "former Act" means the Metis Betterment Act being chapter 233 of the Revised Statutes of Alberta 1970;

(d) "general election" means the annual election held to fill vacancies on the settlement council;

(e) "land registry regulation" means the regulation made under section 148;

(f) "member" means an individual at least 18 years old who is recorded on the Members List as a member of a settlement;

(g) "Metis" means an individual of aboriginal ancestry who identifies with Metis history and culture;

(h) "Minister" means the Member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(i) "Okimawiwin" means the Metis Settlements Okimawiwin established by this Act;

(j) "Okimawiwin Policy" means a policy adopted by Okimawiwin in accordance with this Act;

(k) "provisional certificate" means a provisional certificate of occupancy issued under this Act;

(l) "Registrar" means the Registrar of the Metis Settlements Land Registry;

(m) "settlement" means a corporation established under section 2;

(n) "settlement area" means a geographic area described in Schedule 2;

(o) "settlement council" means the council of a settlement constituted under this Act;

(p) "settlement administrator" means the individual appointed by a settlement council as settlement administrator and includes an individual authorized to act in his place;

(q) "subdivision approving authority" means the Minister, or if the Minister delegates subdivision approving authority to Okimawiwin, it means Okimawiwin;

(r) "Tribunal" means the Metis Appeals Tribunal established by this Act.

(2) When public notice is required to be given by this Act, regulations made under this Act, an Okimawiwin Policy or by by-law, the notice shall be considered to have been properly given if it is given by posting a notice in the settlement office and by

(a) publishing the notice at least once in a newspaper having general circulation in the settlement area, or

(b) posting the notice in at least 4 other widely separated and conspicuous places in the settlement area,

and in any other way a settlement council prescribes, either generally or for a specific notice.

PART 2

SETTLEMENTS

Establishment

2(1) The following are established as corporations:

- (a) Buffalo Lake Metis Settlement;
- (b) East Prairie Metis Settlement;
- (c) Elizabeth Metis Settlement;
- (d) Fishing Lake Metis Settlement;
- (e) Gift Lake Metis Settlement;
- (f) Kikino Metis Settlement;
- (g) Paddle Prairie Metis Settlement;
- (h) Peavine Metis Settlement.

(2) Each corporation established under subsection (1) is composed of the members of that settlement.

Corporate powers

3(1) Subject to this Act, a settlement has the rights, powers and privileges of a natural person.

(2) Unless it is authorized to do so under subsection (3), a settlement may not

(a) engage in commercial activities or invest in securities;

(b) lend money;

(c) guarantee the repayment of a loan made by a lender to someone other than the settlement;

(d) guarantee the payment of interest on a loan to a lender by someone other than the settlement.

(3) The Minister may make regulations

(a) authorizing any one or more settlements to engage in any one or more of the activities described in subsection (2);

(b) respecting any terms and conditions under which the activity may be conducted;

(c) defining "commercial activity" and "securities" for the purposes of this Act and the regulations.

Dissolution

4(1) A settlement may only be dissolved by an Act of the Legislature.

(2) If a settlement is dissolved, its assets and liabilities shall be dealt with in accordance with the Act of dissolution.

Agreements

5(1) No agreement may be entered into by a settlement with any person respecting the expenditure of funds or the creation of a liability unless there are sufficient funds for the proposed expenditure or liability included in an approved budget, and

(a) the settlement council has approved the proposed agreement by by-law, or

(b) the settlement council has passed a by-law stating that an agreement, or a particular kind or class of agreement, need only be approved by or under the authority of a resolution instead of a by-law, and that resolution is adopted by the settlement council.

(2) Unless the Minister otherwise prescribes by regulation, either generally or with respect to one or more settlements, an agreement between a settlement and any person has no effect unless it is approved by the Minister.

(3) An agreement entered into contrary to subsection (2) is against public policy and void.

(4) Subsections (2) and (3) are repealed on December 31, 1998 or on such earlier date as may be specified by Proclamation.

Grants

6 A settlement council may only make a grant of money to a person if

(a) provision is made for grants in an approved budget, and

(b) the grant is of a class or type authorized to be made by regulations made by the Minister.

PART 3

SETTLEMENT GOVERNMENT

Division 1

Settlement Councils

Council composition

7(1) Each settlement shall have a settlement council.

(2) A settlement council

(a) is a continuing body, and

(b) shall be composed of 5 councillors.

(3) The geographic area over which a settlement council has jurisdiction is described in Schedule 2.

Terms of office

8 Except when otherwise provided, the term of office of a councillor

(a) commences at the organizational meeting of the settlement council following the general election, and

(b) expires at the commencement of the organizational meeting of the settlement council in the year in which the term expires, unless the office is vacated at an earlier time.

Chairman of council

9(1) At the first organizational meeting of a settlement council after a general election the councillors shall elect, from among themselves, a chairman, who shall be the chief executive officer of the settlement.

(2) Subject to this section, the term of office of the chairman expires at the commencement of the organizational meeting following the next general election.

(3) The chairman of a settlement council may be removed from the office of chairman if, at a special meeting of the settlement council called to consider the matter, at least 3 councillors vote in favour of removing the chairman from office.

(4) If a chairman of a settlement council

(a) is removed from the office of chairman,

(b) resigns as chairman, or

(c) ceases to be a councillor,

the councillors shall elect another chairman from among themselves, who shall hold office for the balance of his predecessor's term, unless he is removed from office, resigns or ceases to hold office before his term of office expires.

(5) Subject to section 22, a chairman of a settlement council who

(a) is removed from office as chairman, or

(b) resigns as chairman,

remains on the settlement council for the balance of his term as councillor.

Division 2

Settlement Elections

Election day

10 Election day for a general election for a settlement shall be on a date determined by the Minister by regulation after consultation with the settlement.

Election procedure

11(1) Councillors shall be elected to a settlement council in accordance with the Local Authorities Election Act and this Act.

(2) If any conflict arises between this Act and the Local Authorities Election Act this Act prevails.

Candidates for councillor

12 A member may be nominated as a candidate for councillor if that person

(a) is eligible to vote at the election at which he is candidate,

(b) has been a resident of the settlement area for the 12 consecutive months immediately preceding nomination day, and

(c) is not ineligible or disqualified from being a candidate or serving as a councillor.

Eligibility to vote

13 No person is eligible to vote at an election for councillors unless that person is

(a) a member of the settlement,

(b) a Canadian citizen, and

(c) has resided in the settlement area for the 6 consecutive months immediately preceding election day and is resident in the settlement area of which he is a member on election day.

Agreement disclosures

14(1) When a member is nominated as a candidate for councillor, he shall file with the returning officer at the time of his nomination a statement in writing setting out

(a) the number of agreements he has entered into with the settlement that are still in effect and, to the extent he is aware of them, the agreements his immediate family and associates have entered into with the settlement that are still in effect, and

(b) the general nature of each agreement and how long each of them last.

(2) The statement referred to in subsection (1) shall be held by the returning officer and treated as part of the election records but shall be made available to any person for inspection on request.

(3) A candidate for councillor who wilfully refuses or fails to file the information required under subsection (1) within 14 days

after the date of his nomination, ceases to be eligible as a candidate or, if the candidate has been elected, is disqualified immediately following his election.

(4) In this section,

(a) "associates" means

(i) a partnership in which the candidate is a partner;

(ii) a corporation in which the candidate holds 25% or more of the issued voting shares, or of which he is a director;

(b) "immediate family" means spouse, father, mother, brother, sister and children.

Ineligible candidates

15(1) A member is ineligible to be nominated as a candidate for councillor or to be elected as councillor

(a) if, on nomination day or between nomination day and election day, that member

(i) is or becomes a judge of a court,

(ii) is or becomes an officer of Okimawiwin,

(iii) is or becomes a member of the Tribunal,

(iv) is or becomes the auditor of the settlement,

(v) is or becomes a member of the Senate or House of Commons of Canada or of the Legislative Assembly of

Alberta,

(vi) is or becomes indebted to any settlement for any sum exceeding $250, unless a written agreement has been entered into with the settlement to repay the debt and he is not behind in his payments under the agreement,

(vii) is or becomes the subject of renewal certificates under the Mental Health Act or a guardianship or trusteeship order under the Dependent Adults Act, or

(viii) in some other manner is or becomes ineligible or disqualified to be nominated as a candidate for, or to be elected as, a councillor, or

(b) if, in the 3 years preceding election day the member was convicted of

(i) any indictable offence punishable by death or by imprisonment for 5 or more years, or

(ii) an offence under section 112 of the Criminal Code (Canada).

(2) If a candidate for councillor becomes ineligible between nomination day and election day,

(a) public notice of that fact shall be given to the voters and posted in the voting stations by the returning officer, and

(b) if it is not possible to reprint the ballot forms, a vote cast for the ineligible candidate shall be treated as if it were a spoilt ballot.

First elections

16(1) At the first election of councillors under this Act, an election shall be held for 5 councillors.

(2) At the first election

(a) the candidates who receive the most and 2nd most votes are elected for 3 years,

(b) the candidates who receive the 3rd and 4th most votes are elected for 2 years, and

(c) the candidate who receives the 5th most votes is elected for 1 year.

Annual elections

17 Following the first election of councillors under this Act, a general election shall be held each year to fill

(a) vacancies caused by the passage of time, and

(b) any other vacancy on council required to be filled.

Second elections

18 At the second general election under this Act

(a) the vacancy on settlement council caused by the passage of time shall be filled by the candidate who receives the most votes at the election, who shall be elected for a 3 year term of office, and

(b) if there are other vacancies to be filled, the candidate or candidates with the higher number of votes are elected to the longer unexpired term or terms, as the case requires.

Third and subsequent elections

19(1) At the 3rd and subsequent general elections,

(a) the candidate who receives the most votes is elected for 3 years, and

(b) the candidate who receives the 2nd most votes is elected for 2 years.

(2) At the 3rd and subsequent general elections when there are more than 2 vacancies to be filled

(a) the candidate who receives the most votes is elected for 3 years;

(b) if there are 2 two year terms to be filled, the candidates receiving the 2nd and 3rd most votes are elected for 2 years;

(c) if there is one or more than 1 one year term to be filled, the candidate or candidates receiving the next most votes are elected to that or those terms, as the case requires.

By-elections

20 If, at a by-election, there are 2 or more vacancies to be filled

(a) the candidate who receives the most votes is elected for the longest unexpired balance of a term to be filled,

(b) the candidate who receives the 2nd most votes is elected for the 2nd longest unexpired balance of a term to be filled, and

(c) if there are other vacancies, the candidate or candidates with the higher number of votes are elected to the longer unexpired term or terms, as the case requires.

Vacancies

21(1) If a vacancy occurs on a settlement council

(a) within 9 months after a general election, the vacancy shall be filled by a by-election;

(b) more than 9 months after a general election, the vacancy shall not be filled until the next general election is held.

(2) A person elected to fill a vacancy in a by-election holds office for the balance of his predecessor's term.

Disqualification

22(1) A councillor is disqualified from remaining on a settlement council if he

(a) is convicted of an offence under a law in force in Alberta and sentenced to imprisonment for 3 months or more;

(b) is convicted of

(i) an indictable offence punishable by death or imprisonment for 5 years or more, or

(ii) an offence under section 112 of the Criminal Code

(Canada);

(c) is absent, without authorization from the settlement council, from 2 or more consecutive regular council meetings of which he had notice, and the council declares that person to be disqualified;

(d) ceases to be a member of the settlement;

(e) uses information gained through his position as a councillor, which would not have been available to him as a member of the public, to gain a financial benefit either directly or indirectly;

(f) is appointed as a judge of a court;

(g) is appointed to the Senate, or is elected to the House of Commons of Canada or of the Legislative Assembly of Alberta;

(h) is appointed to the Tribunal;

(i) becomes an officer of Okimawiwin;

(j) is appointed as the auditor of the settlement;

(k) becomes the settlement administrator;

(l) becomes a full time employee of the settlement other than as settlement administrator, unless a by-law first approves his employment;

(m) becomes indebted to any settlement for more than $250, unless a written agreement has been entered into with the settlement to repay the debt, and he is not behind in his payments under the agreement;

(n) becomes the subject of renewal certificates under the Mental Health Act or a guardianship or trusteeship order under the Dependent Adults Act;

(o) is disqualified pursuant to section 14(3);

(p) is disqualified from remaining on the settlement council by a court of competent jurisdiction.

(2) If at the time that he is elected as a councillor,

(a) a person is the settlement administrator, his employment terminates on the date of his election;

(b) a person is a full time employee of the settlement, his employment terminates 45 days after the date of the election unless a by-law is passed approving his employment before that time passes.

Resolution of disputes

23(1) If a councillor who is disqualified does not resign, the settlement council or an adult member may apply by originating notice to the Court of Queen's Bench for an order declaring that the councillor has ceased to hold office.

(2) Section 32 of the Municipal Government Act applies to a matter referred to the Court of Queen's Bench under subsection (1) and the judge may make any order with respect to the matter before him that he may make under sections 32 to 35 of that Act.

Resignation

24 A councillor may resign by presenting a written notice of resignation to a settlement council meeting and the resignation may not be withdrawn after the meeting ends.

Insufficient councillors

25(1) When the number of councillors required by this Act is for any reason not nominated or elected, the Minister may

(a) appoint one or more members to fill the vacancies, or

(b) for the purpose of filling the vacancies, direct that a by-election be held and appoint a returning officer to conduct the election.

(2) If the number of members of a settlement council is reduced to less than 3, the Minister may appoint one or more members of the settlement to fill the vacancies for a period of not more than 6 months or until the vacancies are filled by an election.

Special regulations

26 If the Local Authorities Election Act or this Act cannot be applied to an election referred to in this Act, the Minister may make regulations governing the time and conduct of and the procedure at or otherwise relating to the election.

Division 3

Settlement Councillors

Oath of Office

27 Every councillor shall make and subscribe to the official oath prescribed by the Oaths of Office Act before commencing his duties and shall deposit the oath with the settlement administrator.

Conflict disclosures

28(1) A councillor shall disclose to the settlement council any financial interest that he has in any matter before the council and shall not take part in deliberations of the council on that matter or vote on that matter.

(2) If a disagreement arises as to whether a councillor has a financial interest in a matter before the settlement council, the council shall decide by vote whether the councillor has a financial interest, and the councillor in question may not take part in that vote.

(3) When the settlement council decides that a councillor has a financial interest in a matter before the council, the councillor in question shall not take part in deliberations of the council on that matter or vote on that matter.

(4) A councillor who is disqualified from taking part in deliberations and from voting under this section shall be considered not to be present at the settlement council meeting for the purposes of determining a quorum, and may, by resolution of the settlement council, be excluded from the meeting during the deliberations if he does not voluntarily leave the meeting.

(5) If a councillor who is disqualified under this section refuses to voluntarily leave the meeting, he may not vote on a resolution to exclude him from the meeting.

Division 4

Settlement Council Meetings

Valid proceedings

29 The proceedings of a settlement council are not invalid by reason of any vacancy or disqualification of a councillor, if at least 3 councillors remain in office.

Open meetings

30(1) Subject to subsections (2) and (3), settlement council meetings are open to the public.

(2) The chairman of the settlement council or, in his absence, the person presiding at the meeting, may cause to be expelled and excluded from any settlement council meeting any councillor or other person who engages in improper conduct at the meeting.

(3) When a majority of councillors at a meeting are of the opinion that it is in the public interest to hold a committee meeting of the whole or part of the settlement council in private, a settlement council may exclude any person from the meeting who is not a member of the settlement, but it may not pass a by-law or resolution at the committee meeting except a resolution to revert to an open meeting.

Organizational meetings

31(1) An organizational meeting of a settlement council shall be held each year within 14 days after the general election.

(2) The settlement administrator shall give written notice of the date, time and place of the organizational meeting to councillors and to those persons who have been elected to serve as councillors.

Regular meetings

32(1) A settlement council shall hold as many meetings in each year as are considered necessary to deal with the business of the settlement.

(2) A settlement council may, at any meeting at which all the councillors are present, decide to hold regular meetings of the council and the resolution shall state the date, time and place of every regular meeting and no notice of those meetings is necessary.

Special meetings

33(1) The chairman of a settlement council may call a special meeting of the council whenever he considers it expedient to do so and he shall do so when requested in writing by a majority of the councillors.

(2) No special meeting of a settlement council shall be held unless a reasonable effort has been made to notify all councillors of the date, time, place and purpose of the meeting, but no notice is required if all the councillors so agree.

(3) Every settlement council shall provide by by-law the manner in which notices under subsection (2) are to be given and the means by which a record of the notices is to be kept by the settlement administrator.

(4) No business, other than that specified in the notice calling the meeting, shall be conducted at a special meeting of a settlement council unless all the councillors are present, in which case, by unanimous consent, any other business may be conducted.

Annual meeting

34 Within 90 days after the end of each financial year, the settlement council shall by public notice call an annual meeting of the residents

(a) to discuss the activities of the council in the past year and its proposals for the next year,

(b) to present the audited financial statements for the immediately preceding financial year, and

(c) to discuss any matters raised by those present at the meeting.

Council proceedings

35(1) A settlement council may

(a) establish or adopt rules of conduct for councillors and others present at council, committee or public meetings;

(b) govern the calling of settlement council, committee and public meetings and the public notice to be given of them;

(c) establish a quorum for committee and public meetings and the procedure to be followed when a vote is taken on any matter at the meeting.

(2) Three councillors must be present at a settlement council meeting to form a quorum.

(3) Each councillor present at a settlement council meeting is entitled to 1 vote on matters put to a vote at the meeting, unless he is disqualified from taking part in the vote.

(4) Where there is an equal number of votes on any matter the vote shall be deemed to be decided in the negative.

(5) Whenever a recorded vote is demanded by a councillor, the settlement administrator shall record in the minutes the name of each councillor present at the meeting and whether the councillor voted for or against or abstained or was disqualified from voting.

> Note: A provision may be required to deal with cases where no quorum is possible as a result of 3 councillors being in a conflict of interest position.

Division 5

Decision Making

Kinds of decision

36(1) Except when this Act otherwise provides, the powers and duties given to or imposed on a settlement under this or any other enactment shall be performed by the settlement council.

(2) A settlement council shall exercise and perform its powers and duties by resolution, or where required by this or any other enactment, by by-law.

(3) A settlement council may exercise or perform by by-law any power or duty that is exercisable by resolution.

Valid decisions

37(1) A by-law or resolution of a settlement council is only valid if

(a) it meets the requirements of this Act,

(b) it is passed at a regular or special meeting of the council, and

(c) a quorum of councillors is present at the meeting.

(2) A resolution is adopted by a settlement council if at least 3 councillors vote in favour of it at a council meeting.

(3) By-laws of a settlement council shall be made in accordance with Part 6.

Recording decisions

38(1) Except as may be otherwise provided in section 44, every order and agreement made by or on behalf of a settlement, and every resolution shall be in writing signed by

(a) the chairman of the settlement council or a councillor designated by the council as his alternate, and

(b) the settlement administrator or person designated by the settlement council as his alternate.

(2) Every by-law made by the settlement council shall be sealed with the seal of the settlement and signed by

(a) at least 3 councillors, and

(b) the settlement administrator.

By-laws and minutes

39(1) The settlement administrator is responsible for recording in the settlement council minute book all resolutions, decisions and other proceedings of the settlement council.

(2) Minutes of all settlement council meetings and by-laws of the settlement shall be retained by the settlement administrator at the settlement office and a copy of them sent to Okimawiwin and the Minister.

Consistency with Provincial law and Okimawiwin Policies

40(1) Except when otherwise provided, by-laws and resolutions that are inconsistent with this or any other enactment are of no force or effect to the extent of the inconsistency.

(2) By-laws and resolutions that are inconsistent with Okimawiwin Policy are of no force or effect to the extent of the inconsistency.

Division 6

Administrative Matters

Delegation

41(1) A settlement council may delegate any of the duties and powers imposed or conferred on it by this or any other enactment, except the power

(a) to borrow money;

(b) to expend money, unless specifically authorized by the settlement council;

(c) to pass a by-law;

(d) to make grants;

(e) to enter into an agreement;

(f) to make decisions respecting applications for membership in the settlement or allocations of land.

(2) A committee to which a power or duty is delegated under subsection (1) may exercise the power or duty with the same effect as the settlement council.

Settlement office

42(1) Every settlement council shall name a place in the settlement area as its settlement office to which all notices and correspondence to the settlement or the settlement council may be sent.

(2) A copy of a resolution made under subsection (1) shall be filed with the Registrar who shall maintain a record of the address of each settlement office.

Settlement employees

43 A settlement council

(a) shall appoint a settlement administrator and any other employees considered necessary, fix their remuneration and terms of employment;

(b) may prescribe the duties of the settlement administrator and other employees in addition to the duties prescribed by this or any other enactment.

Administrative and employment policy

44(1) A settlement council shall establish an administrative and employment policy to be followed by the council and its employees which may provide for the delegation of specified powers and functions, except the power

(a) to borrow money;

(b) to pass a by-law;

(c) to make grants of money;

(d) to make decisions respecting applications for membership in the settlement or allocation of land.

(2) A policy under subsection (1) may provide for the delegation of the powers and duties of the settlement administrator.

(3) Within a reasonable time of receiving a written request to do so, a settlement administrator shall provide a copy of any document that is required to be posted under section 47, at not more than the cost of reproducing the copies.

Pensions

45 Note: It is agreed that provisions for setting up pension plans should be included - in some respects similar to sections 139.1 - 144 of the Municipal Government Act.

Further discussion is needed to determine how the Plan should be administered and the exact nature of the necessary provisions.

Settlement holidays

46 For the purpose of advancing Metis culture or for the general benefit of the residents of the settlement area

(a) the chairman of a settlement council may declare that any 1 day of the year or any 2 half days are settlement holidays, and

(b) a settlement council may declare a 1 day or 2 half days as settlement holidays.

Publication of documents

47(1) Subject to subsection (2), the following documents shall be posted in the settlement office for such period of time as is prescribed by by-law:

(a) any agreement entered into by the settlement and any proposed by-law after it has been given 1st reading;

(b) any report of a committee or employee of the settlement after it has been submitted to the settlement council, other than an opinion or report of the settlement solicitor;

(c) an audited report of the settlement;

(d) the minutes of the settlement council, after they have been adopted by the council;

(e) by-laws of the settlement.

(2) A settlement council may provide that subsection (1) does not apply with respect to a specified portion of an agreement or report that contains technical, commercial or confidential

information the release of which could prejudice the settlement or any other person, or breach information held in confidence.

PART 4

METIS SETTLEMENTS OKIMAWIWIN

Establishment

48 There is hereby established a corporation to be known as the Metis Settlements Okimawiwin.

Dissolution

49(1) Okimawiwin may only be dissolved

(a) pursuant to section 24.1 of the Alberta Act, at the request of Okimawiwin, and

(b) by an Act of the Legislature.

(2) If Okimawiwin is dissolved, its assets and liabilities shall be dealt with in accordance with the Act of dissolution.

Composition

50 Okimawiwin is composed of the officers of Okimawiwin and councillors of every settlement council.

Okimawiwin authority

51(1) Subject to this Act, Okimawiwin has the rights, powers and privileges of a natural person.

(2) Okimawiwin may not

(a) engage in commercial activities or invest in securities, except in accordance with an Okimawiwin Policy;

(b) lend money, except in accordance with an Okimawiwin Policy;

(c) make grants of money, except in accordance with an Okimawiwin Policy;

(d) guarantee the repayment of a loan made by a lender to another person, unless that person is a settlement and Okimawiwin is permitted by Okimawiwin Policy to do so;

(e) guarantee the payment of interest on a loan to a lender, unless the loan is to a settlement in accordance with an Okimawiwin Policy.

Assistance to Okimawiwin

52 The Minister may authorize persons under his administration to provide such assistance and advice to Okimawiwin as is agreed between the Minister and Okimawiwin.

General Council

53 Okimawiwin shall be governed by a General Council composed of

(a) the councillors of every settlement council, and

(b) the officers of Okimawiwin who shall be a President, Vice-President, Secretary and Treasurer.

Okimawiwin office

54(1) Okimawiwin shall name a place as its office

(a) to which all notices and correspondence to Okimawiwin, the General Council and the Executive Council of Okimawiwin may be sent,

(b) at which copies of all resolutions, special resolutions and other decisions of Okimawiwin and the Executive Council of Okimawiwin shall be kept;

(c) at which copies of any approvals, vetos, and regulations made by the Minister respecting Okimawiwin Policies shall be kept.

(2) When Okimawiwin names its office it shall notify the Registrar.

Officers of Okimawiwin

55(1) Subject to subsection (2), each officer of Okimawiwin shall be elected for a 4 year term of office.

(2) At the first election of officers of Okimawiwin the Vice-President and the Secretary shall be elected for a 2-year term of office.

(3) Each officer of Okimawiwin shall be elected by the settlements by a secret ballot, in which each settlement casts one vote, with balloting to continue until a candidate has a clear majority of those settlements represented at the meeting and voting.

(4) The settlements may, subject to subsection (3), determine the procedure for the holding of the first election of the officers of Okimawiwin.

(5) An officer of Okimawiwin continues to hold office after the expiry of his term of office until he is re-elected, his successor

is elected or a period of 90 days has expired, whichever occurs first.

Election dates

56(1) The election of officers of Okimawiwin shall be held at the annual meeting of Okimawiwin but for the purposes of the first election, the election of officers shall be held as soon as possible after the coming into force of this section.

(2) No person is eligible for election as an officer of Okimawiwin unless he is a member who has resided in a settlement area for at least 3 years immediately preceding the election.

Officer's duties

57(1) The officers of Okimawiwin shall represent all the settlements at meetings of the General Council and Executive Council of Okimawiwin, but have no right to vote at either of those meetings.

(2) An officer of Okimawiwin shall subscribe to an official oath of office under the Oaths of Office Act before commencing his duties.

Rules of procedure

58(1) The General Council of Okimawiwin shall

(a) establish or adopt rules of conduct for its members and others present at its meetings;

(b) govern the calling of an annual and other meetings;

(c) establish or adopt rules of procedure for the holding of an election of the officers of Okimawiwin;

(d) establish or adopt rules relating to the disqualification of the officers of Okimawiwin.

(2) The General Council may delegate to the Executive Council of Okimawiwin any of its powers, duties or functions, except the power to make Okimawiwin Policy.

Executive Council

59(1) There shall be an Executive Council of Okimawiwin composed of

(a) the officers of Okimawiwin, and

(b) the chairman of each settlement council.

(2) The Executive Council of Okimawiwin shall, subject to Okimawiwin Policy, manage the affairs of Okimawiwin and act on its behalf.

Valid proceedings

60 The proceedings of the Executive Council of Okimawiwin are not invalid by reason of any vacancy in the membership of the Executive Council, if at least 5 voting members remain in office.

Special meetings of Executive Council

61(1) The Executive Council of Okimawiwin shall

(a) establish or adopt rules of conduct for its members and others present at its meetings;

(b) govern the calling of its meetings and the notice to be given of them.

(2) A special meeting of the Executive Council of Okimawiwin may be called by the Secretary when required to do so

(a) by the President of Okimawiwin, or

(b) by a majority of the voting members of the Executive Council.

(3) Notice of a special meeting of the Executive Council of Okimawiwin stating the date, time and place at which it is to be held and the nature of the business shall be given to each member of the Executive Council.

(4) No business other than that specified in the notice of the meeting shall be conducted at a special meeting of the Executive Council of Okimawiwin unless all the voting members are present, in which case, by unanimous consent, any other business may be conducted.

Executive Council decisions

62 The Executive Council of Okimawiwin shall make decisions by resolution.

Recording decisions

63 Every

(a) resolution of the Executive Council of Okimawiwin,

(b) resolution of the General Council of Okimawiwin, and

(c) Okimawiwin Policy,

shall be in writing signed by the President and at least 3 members of the Executive Council.

Resolutions

64(1) Unless this Act otherwise requires, the General Council of Okimawiwin shall act by resolution or special resolution.

(2) A resolution or a special resolution of the General Council of Okimawiwin is only valid if

(a) it meets the requirements of this Act, and

(b) it is passed at a regular or special meeting of the General Council.

(3) A resolution of the General Council is not valid unless at least 5 settlement councils vote in favour of it.

(4) A special resolution of the general Council is not valid unless

(a) at least 14 days written notice of the date, time and place of the meeting at which the special resolution will be voted on has been given to each settlement council, and

(b) at the meeting at least 70% of the settlements that together represent at least 70% of the members of all the settlements, vote in favour of the resolution.

Okimawiwin Policies

65(1) An Okimawiwin Policy or an amendment to or repeal of the

Policy may only be adopted by a special resolution of the General Council of Okimawiwin.

(2) At least 14 days before a meeting at which an Okimawiwin Policy, or amendment to or a repeal of a Policy is to be voted on, the Secretary of Okimawiwin shall

(a) if the Members List is maintained by the Minister, request the Minister, or

(b) if the Members List is maintained by Okimawiwin, act himself,

to certify the total number of members of all the settlements.

(3) In any proceedings, under this or any other enactment, the certificate of the Minister or the Secretary of Okimawiwin, as the case requires, purporting to be signed pursuant to subsection (2), shall be admitted in evidence as prima facie proof of the facts stated in the certificate without proof of the signature or appointment of the Minister or the election of the Secretary, as the case requires.

Effect of Policies

66(1) An Okimawiwin Policy is binding on every settlement council and no settlement council shall enact any by-law or take any action or authorize or undertake any development or activity that is inconsistent with the Policy.

(2) Every settlement council shall comply with Okimawiwin Policy.

Okimawiwin Policies subject to veto

67(1) Okimawiwin may, after consultation with the Minister, make, amend or repeal a Policy in respect of all or any of the matters described in subsection (2).

(2) Subject to this Act, Okimawiwin may make a Policy in respect of:

(a) membership in settlements;

(b) notice and procedures for settlement council or Okimawiwin meetings or public or special meetings;

(c) the prohibition or the regulation and control of the sale, lease or other disposition of timber in settlement areas;

(d) respecting the means by which any right or interest in land owned by Okimawiwin may be created, the person or persons having authority to create it, the persons who may acquire the right or interest and any conditions or restrictions attached to its creation or attaching to the right or interest;

(e) respecting any prohibitions, conditions, limitations reservations or exceptions that shall or may be attached to the issue of any provisional certificate, certificate of occupancy or other instrument issued under this Act or pursuant to a Policy;

(f) respecting the distribution of monies that may be appropriated for the general benefit of the settlements;

(g) respecting rules to be applied to determine whether a member is to be considered as a resident of or residing in a settlement area;

(h) providing for the present and future land use and development of the settlement areas and the regulation and control of the use and development of land and buildings for the purpose of providing a framework for general plans and land use by-laws of the settlements;

(i) respecting the occupation or use of settlement areas that are not allocated to a person or in respect of which no person has a right of possession;

(j) respecting whether and, if so, under what conditions Okimawiwin may

  (i) engage in commercial activities or investment in securities;

  (ii) lend money;

  (iii) make grants of money;

  (iv) guarantee the repayment of loans made by a lender to a settlement;

  (v) guarantee the payment of interest on a loan to settlement.

(k) respecting any matter delegated to it under section 175 or otherwise;

(l) respecting the internal organization and management of the General Council and Executive Council and the delegation of authority of the General Council to the Executive Council or to any person or committee, except the power to make Policies;

(m) respecting the circumstances under which and the means by which an allotment continued under Part 10 may be terminated;

(n) those matters that may, by this or any other enactment, be subject to an Okimawiwin Policy;

(o) such other matters as are considered to be for the benefit of the settlements or their members.

(3) An Okimawiwin Policy or an amendment to or repeal of a Policy on a matter described in subsection (2), shall be sent to the Minister and comes into effect 90 days after it is received by the Minister, or such longer period as Okimawiwin agrees to, unless

(a) the Minister approves the Policy in writing at an earlier date, in which case the Policy comes into effect when it is approved, or any later date specified in the Policy, or

(b) the Minister veto's the Policy by notice in writing to the President of Okimawiwin.

(4) An Okimawiwin Policy that is vetoed by the Minister has no force or effect.

Policies not subject to veto

68 The Minister, by regulation, may specify those Okimawiwin Policies or any amendment or repeal of a Policy that are not subject to a veto, in which case the Policies come into effect when they are approved by special resolution, or any later date specified in the Policy.

Okimawiwin Policies subject to approval

69(1) Okimawiwin may, after consultation with the Minister, make, amend or repeal a Policy in respect of all or any of the matters described in subsection (2).

(2) Notwithstanding this or any other enactment, Okimawiwin may make a Policy in respect of:

(a) the prohibition, regulation and control of hunting on settlement areas;

(b) the prohibition, regulation and control of trapping on settlement areas;

(c) the prohibition, regulation and control of gathering on settlement areas;

(d) subject to any Act of the Parliament of Canada, the prohibition, regulation and control of fishing in settlement areas.

(3) A Policy or an amendment or repeal of a Policy on any matter described in subsection (2) has no force or effect until it is approved by the Lieutenant Governor in Council by regulation.

(4) If the Lieutenant Governor in Council repeals his approval under subsection (3), the Okimawiwin Policy that was the subject of the approval is thereby repealed.

Model by-laws

70 An Okimawiwin Policy may contain a model by-law which, if a settlement council fails to pass in the same or substantially the same form within the time prescribed by the Policy, comes into

force in all respects as if it were a by-law made by the settlement council.

Temporary policies

71(1) At the request of Okimawiwin, the Minister may make by regulation anything that Okimawiwin may make by Policy.

(2) When Okimawiwin makes a Policy on any matter in respect of which the Minister has made a regulation under subsection (1), the regulation ceases to have effect when the Policy comes into force.

Policies and Provincial law

72 Except where this or any other enactment otherwise provides, Okimawiwin Policies that are inconsistent with this or any other enactment are of no force and effect to the extent of the inconsistency.

PART 5

METIS APPEALS TRIBUNAL

Establishment

73(1) There is hereby established a Metis Appeals Tribunal.

(2) The Tribunal shall consist of not more than 7 persons, of whom

(a) subject to subsection (3), 1 shall be appointed by the Minister from a list of nominees provided by Okimawiwin, who shall be chairman of the Tribunal,

(b) not more than 3 shall be appointed by resolution of Okimawiwin, one of whom shall be designated as vice-chairman of the Tribunal by Okimawiwin;

(c) not more than 3 shall be appointed by the Minister and

(i) at least 2 of the appointees shall be persons who are not members of a settlement, and

(ii) of the 3 appointees the Minister shall designate one of them as vice-chairman of the Tribunal.

(3) If Okimawiwin fails to submit a list of nominees for chairman of the Tribunal, or if the Minister is not prepared to appoint any of the nominees of Okimawiwin as chairman, then the Minister shall request the Court of Queen's Bench to name a person as chairman of the Tribunal until Okimawiwin submits a nominee that the Minister appoints.

(4) If a vacancy occurs in the membership of the Tribunal, it may be filled by the party making the initial appointment to the

position vacated.

Term of Office

74 A person appointed to the Tribunal

(a) holds office for 4 years, and may be reappointed, but

(b) may be removed before his term expires by agreement of the Minister and Okimawiwin.

Panels of the Tribunal

75(1) Subject to subsections (2) and (3), the chairman of the Tribunal may designate any 3 or more members of the Tribunal to sit as a panel of the Tribunal to exercise any jurisdiction that the Tribunal may exercise under this or any other enactment.

(2) When the Tribunal is required to make a decision which primarily is concerned with membership of a settlement, the majority of any panel designated to hear the matter shall be composed of members of the Tribunal who are appointed by the Minister.

(3) When the Tribunal is required to make a decision which primarily is concerned with land, a majority of any panel of the Tribunal designated to hear the matter shall be composed of persons who are appointed to the Tribunal by Okimawiwin.

(4) Where

(a) there is doubt over whether a matter is primarily concerned with land or membership, or

(b) any other matter is referred to the Tribunal for a decision,

the chairman shall determine the composition of the panel as he considers appropriate, and his decision is final.

(5) If the chairman of the Tribunal does not preside at a meeting or hearing of the Tribunal he shall designate a vice chairman to do so.

Jurisdiction of Panels

76(1) A decision or other action taken by a panel of the Tribunal is the decision or action of the Tribunal and binds all the members of the Tribunal.

(2) A panel of a Tribunal may exercise and perform all the powers and duties of the Tribunal under this or any other enactment and any reference to the Tribunal in this or any other enactment shall also be deemed to be a reference to a panel of the Tribunal.

(3) 2 panels of the Tribunal may meet simultaneously or at different times.

Rules of Procedure

77 The Tribunal may make rules of procedure for the conduct of its business.

Tribunal Chairman

78(1) The chairman of the Tribunal

(a) is the chief executive office of the Tribunal, and

(b) subject to any direction or decision that is made by the

Tribunal, has the power to act on behalf of the Tribunal in respect of anything relating to its administrative affairs.

(2) The chairman of the Tribunal may delegate any power, duty or function conferred or imposed on him to any vice-chairman who then may act for the chairman, but the chairman retains his authority to do so.

Jurisdiction

79(1) The Tribunal may

(a) hear appeals and references from decisions relating to membership and the allocation of land;

(b) perform any other function assigned to it by or pursuant to this or any other enactment or an Okimawiwin Policy;

(c) decide differences or disputes between 2 or more members or between members and persons who are not members if

(i) all the parties to the dispute agree in writing that the Tribunal should decide the matter, and

(ii) the settlement council of the settlement area in which the dispute or difference arises agrees that the Tribunal should decide the matter;

(d) decide differences or disputes between

(i) 2 or more settlements if both settlements agree that the Tribunal should decide the matter;

(ii) a settlement and one or more members or persons who are not members if all the parties to the dispute agree in writing that the Tribunal should decide the matter;

(e) decide differences or disputes between Okimawiwin and any one or more settlements or other persons, if all the parties involved in the dispute or difference agree that the Tribunal should decide the matter;

(f) make an advance ruling on a matter referred to it by 2 or more persons, whether or not a dispute or difference has arisen over the matter.

(2) With respect to a difference or dispute referred to it under subsection (1)(c) to (e), the Tribunal may

(a) take no action on the matter and notify the parties accordingly;

(b) appoint a person to inquire into the matter and make a report, or endeavour to effect an agreement or resolve of the matter;

(c) hold a hearing, or decide the matter on the basis of written submissions if the parties agree;

(d) establish whatever means of dispute resolution, including conciliation and mediation, that appears to be appropriate in the circumstances.

(3) The Tribunal may, in respect of any matter coming before it,

(a) require, conduct or supervise votes by secret ballot or at a public meeting and make rules for the conduct of the meeting and the vote;

(b) direct that a by-law be amended, re-enacted or repealed to conform with Okimawiwin Policy, or to remove an inconsistency or conflict with Okimawiwin Policy.

Commissioners for Oaths

80 For the purposes of acting as the chairman or vice-chairman of the Tribunal, the chairman and the vice-chairman are commissioners empowered to administer oaths and take and receive affidavits, declarations and affirmations in Alberta.

Notice to attend or produce

81(1) When in the opinion of the Tribunal or the person sitting as chairman of the Tribunal

(a) the attendance of a person is required or the attendance of a person to produce a document or other thing is required, or

(b) the production of a document or other thing is required,

the Tribunal, or the person sitting as chairman may cause to be served on the person concerned a notice to attend or a notice to attend and produce a document or other thing, as the case may be, signed by the person sitting as chairman or secretary to the Tribunal.

(2) If a person fails or refuses to comply with

(a) a notice to attend, or

(b) a notice to attend and produce a document or other thing, issued under subsection (1), a judge of the Court of Queen's Bench on application of the Tribunal, chairman or vice-chairman, may issue a warrant requiring the attendance of the person or the attendance of the person to produce the document or other thing.

(3) A witness may be examined under oath on anything relevant to a matter before the Tribunal and shall not be excused from answering any question on the ground that the answer might tend to

(a) incriminate him,

(b) subject him to punishment under this Act, or

(c) establish his liability

(i) to a civil proceeding at the instance of the Crown or of any other person, or

(ii) to prosecution under any Act,

but if the answer so given tends to incriminate him, subject him to punishment or establish his liability, it shall not be used or received against him in any civil proceedings or in any proceedings under any other Act, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

Proceedings

82 The Tribunal

(a) is not bound by the rules of evidence applicable to judicial proceedings, and

(b) may accept any oral, written or other evidence that it considers proper, whether admissible in a court of law or not.

Consideration when decision making

83 In coming to a decision on any matter, the Tribunal is bound by this and every other enactment, and shall conform with and comply with Okimawiwin Policy and by-laws that are enacted in accordance with this or any other enactment.

Decisions

84(1) A decision of

(a) a majority of the members of the Tribunal, or

(b) a majority of a panel of the Tribunal,

is the decision of the Tribunal.

(2) If there is no majority decision of the Tribunal, the decision of the chairman or vice-chairman, as the case may be, is the decision of the Tribunal.

(3) A decision of the Tribunal or a panel of the Tribunal binds all members of the Tribunal.

Orders

85(1) An order, direction or other decision that the Tribunal makes may be issued on its behalf by the chairman or a vice-chairman.

(2) An order purporting to be signed by the chairman or a vice-chairman on behalf of the Tribunal shall be admitted in evidence

as prima facie proof

(a) of the order, and

(b) that the person signing it was authorized to do so,

without proof of the appointment or signature of the chairman or vice-chairman or secretary of the Tribunal.

(3) A copy of an order having endorsed on it a certificate purporting to be signed by the secretary of the Tribunal, stating that the copy is a true copy, shall be received in any court as prima facie proof of the order and its contents, without proof of the appointment or signature of the secretary.

Tribunal orders

86(1) The Tribunal may direct in any order that the order or any provision of it come into force

(a) at a future fixed time,

(b) on the happening of a contingency, event or condition specified in the order, or

(c) on the performance of conditions to the satisfaction of the Tribunal or a person named by it,

and the Tribunal may direct that the whole or any portion of the order have force for a limited time or until the happening of any specific event.

(2) The Tribunal may, instead of making an order final in the first instance, make an interim order and reserve further jurisdiction, either for an adjourned hearing of the matter or for

further application.

Partial relief

87 On an application or appeal to the Tribunal, the Tribunal may make an order granting the whole or part of the application, or may grant any further or other relief in addition to, or in substitution for, that applied for that seems just and proper to the Tribunal.

Interim orders

88 The Tribunal may, if the special circumstances of a case in its opinion so require, make an interim ex parte order authorizing, requiring or prohibiting anything that the Tribunal is empowered to authorize, require or prohibit, but the order shall not be made for any longer time that the Tribunal considers necessary to enable the matter to be heard and determined.

Time extensions

89 When an appeal or matter before the Tribunal is, by this or any other enactment or by any rule, order or decision of the Tribunal required to be done, performed or completed within a specified time and if the circumstances of the case in its opinion so require, the Tribunal may, on giving such notice as it considers reasonable, or in its discretion without notice, extend the time so specified or waive the requirement, whether or not the time has passed or expired.

Enforcement of decisions and orders

90 An order or decision of the Tribunal may, by leave of the Court of Queen's Bench, be filed as a judgment or order of that Court and upon filing becomes enforceable as a judgement or order

of the Court.

Registration in Metis Settlements Land Registry

91(1) In the case of an order of the Tribunal for payment of any money, costs, expenses or penalty, a certified copy of the order signed by the Secretary of the Tribunal may be registered in the Metis Settlement Land Registry against the instrument held by the person ordered to pay the money.

(2) When registered under subsection (1), the order of the Tribunal constitutes a lien and charge on any improvements on the land or interest in the improvements that are held by the person ordered to pay the money to the same extent and in the same manner as the land would be bound by the registration of an execution issued after judgment in the Court of Queen's Bench.

Costs

92(1) The costs of and incidental to any proceeding before the Tribunal are in the discretion of the Tribunal and may be fixed in any case at a sum certain.

(2) The Tribunal may order by whom and to whom any costs are to be paid, and by whom they are to be determined and allowed.

(3) The Tribunal may, with the approval of the Minister, prescribe the fees to be paid by settlements or persons interested in the matters that come before the Tribunal, as a condition of commencing proceedings, inquiry or other action.

Effective date of orders

93(1) A decision of the Tribunal takes effect

(a) at the time prescribed by the decision, or

(b) if no date is prescribed, on the date of the decision.

(2) A copy of every decision that the Tribunal makes shall be sent to all persons that it considers affected by the decision.

Employees

94 In accordance with the Public Service Act, there may be appointed a secretary and such other persons as the Tribunal requires.

Technical irregularities

95 No proceeding or decision of the Tribunal is invalid by reason of

(a) a defect of form,

(b) a technical irregularity, or

(c) informality, if there has been substantial compliance with the requirements of this Part.

Report

96(1) The Tribunal shall, on or before March 31 in each year, transmit to the Minister and Okimawiwin a report for the year ending on the preceding December 31, showing

(a) the nature of its activities;

(b) the general manner in which it dealt with matters coming before it;

(c) any other matter that the Minister directs.

(2) The Minister shall table the report referred to in subsection (1) in the Legislative Assembly if it is then sitting or, if it is not sitting, within 15 days after the commencement of the next sitting.

Immunity

97(1) Neither the members, nor the secretary of the Tribunal, nor anyone acting on behalf of the Tribunal, is personally liable for anything done by the Tribunal or by him or under the authority of this or any other enactment.

(2) No member of the Tribunal, nor any employee or person acting on behalf of the Tribunal shall, in any civil suit to which the Tribunal is not a party, be required to give testimony with regard to information obtained by him in the discharge of his duties.

Administrative support

98 The Minister shall provide administrative, secretarial and support services for the Tribunal as the Minister considers necessary.

Renumeration and benefits

99 The members of the Tribunal shall be paid, at the rate prescribed by the Minister, remuneration and reasonable travelling and living expenses while away from their ordinary places of residence in the course of their duties.

PART 6

BY-LAW MAKING AUTHORITY

Division 1

By-law Making Authority

Geographic jurisdiction

100 Except where this Act otherwise provides, the by-law making authority of a settlement council is confined to the settlement area.

> Note: The "exception" referred to in this section is intended to permit some by-laws to apply to members when they are not in the settlement area. Further discussion with the Federation on this matter will be required.

By-law Authority

101(1) A settlement council may make by-laws with respect to

(a) all or any of the matters described in Schedule 1, Division 1,

(b) if an Okimawiwin Policy is in effect respecting the matter, all or any of the matters described in Schedule 1 Division 2 or Division 3, or

(c) all or any of the matters provided elsewhere in this or any other enactment.

(2) For the 3 years after the coming into force of this section,

(a) no by-law referred to in subsection (1) shall be passed by a settlement council unless the by-law is prepared in consultation with the Minister, and

(b) no by-law referred to in subsection (1) is effective unless it is approved in writing by the Minister.

(3) Notwithstanding subsection (2), the Minister may, by regulation, which may apply to all or any of the settlements, specify the subject matter of by-laws that he does not need to be consulted about or approve, in which case subsection (2) does not apply to the settlement named or the subject matter specified in the regulation.

(4) Subsections (2) and (3) are repealed 3 years after the coming into force of this section.

Transitional Ministerial authority

102(1) For the 3 years following the commencement of this section, the Minister may, after consultation with the settlements affected, by regulation, make by-laws with respect to any one or more of the settlement areas on all or any of the matters referred to in section 101.

(2) When a settlement council passes a by-law on the same matter as a by-law made by the Minister under subsection (1), the by-law made by the Minister ceases to have effect with respect to the settlement on the date that the settlement by-law comes into effect.

(3) This section is repealed 3 years after the coming into force of this section, but any by-law enacted under subsection (1) continues in effect until repealed by the Minister or the settlement council passes a by-law on the same subject matter.

Regulations Act

103 The Regulations Act does not apply to a by-law made by the Minister under section 101 or 102.

Effect of Policy on by-laws

104 If a by-law is in effect and,

(a) an Okimawiwin Policy is subsequently made or amended, or is repealed and a new Policy is substituted for it, making the by-law inconsistent with the Policy, the by-law is then of no force or effect to the extent of the inconsistency, and

(b) in the case of a by-law made pursuant to a matter referred to in Schedule 1 Division 2 or Division 3, the Policy in accordance with which the by-law was made is repealed, and no Policy is substituted for it, the by-law is deemed to be repealed.

Division 2

Procedure to Make By-laws

Enactment of by-laws

105(1) No by-law has any effect unless it is given 3 distinct and separate readings at a meeting of a settlement council but no more than 2 readings may be given at the same meeting.

(2) If a proposed by-law is in writing and available to councillors, only the title or identifying number need be read at each reading of the by-law.

(3) A by-law shall not be given 2nd reading unless it is in writing and available to councillors.

(4) Except as otherwise provided, following each reading and debate, if any, of a proposed by-law, a vote of the councillors shall be taken and the proposed by-law shall only be given the next reading if at least 3 councillors vote in favour of the by-law.

(5) If a by-law does not receive 3rd reading within 2 years from the date of the first reading, the readings are deemed to have been rescinded.

(6) If the by-law is defeated on 3rd reading, the previous readings are deemed to have been rescinded.

Public approval of by-laws

106(1) After 2nd reading but before 3rd reading every by-law shall be presented to a public meeting in the settlement area of which at least 14 days public notice has been given of the date, time and place.

(2) A by-law that is presented to a public meeting shall not be given 3rd reading unless it is approved by a majority of those adult members of the settlement who are present and vote at the meeting.

(3) If the vote at the public meeting is not in favour of the proposed by-law, it shall be considered to have been defeated.

(4) A person who may be affected by an issue under discussion at a public meeting has the right to participate in the discussion of that issue but may not vote on the issue unless that person is a member of the settlement.

Emergencies

107 In an emergency that affects the health or safety of the community, the settlement council may, by unanimous resolution, declare that section 106(1) to (3) is not to apply to a by-law designed to deal with the emergency, in which case no public meeting or vote is required.

Effective date

108 A by-law comes into effect

(a) on the day that it is given 3rd reading,

(b) on any later date that is specified in the by-law for it or part of it to come into effect, or

(c) if an approval of the by-law is required, on the date the approval is given or on any future date specified in the approval or the by-law.

By-law penalties

109(1) A settlement council may, by by-law, with respect to the contravention of a by-law made under this or any other enactment

(a) impose a fine not exceeding $2500;

(b) impose a minimum and maximum fine applicable to first, second or subsequent offences, but the maximum fine for each offence shall not exceed $2500;

(c) provide for imprisonment for any period up to 6 months if a fine is not paid.

(2) In addition to any other fine or penalty that a court may impose under this or any other enactment or any by-law of a settlement made under this or any other enactment, the court may

(a) when a conviction is for non-payment of any fee, charge, levy, dues or other payment for a licence, permit approval or other authorization, or tax payable to the settlement under a by-law, also order payment of that sum in addition to any fine imposed, and

(b) when the conviction is for the failure or refusal of a person to comply with a by-law, order that the person comply with the by-law.

(3) A council may enact a general penalty by-law for a contravention of any by-law or of any number of specified by-laws, and may impose a fine and imprisonment in case of non-payment of the fine.

(4) A penalty or fine paid under any by-law of a settlement under this or any other enactment belongs to and forms part of the general revenue of the settlement.

Accepting delegated powers

110 With the prior agreement of the Minister, a settlement council may, on behalf of the settlement, accept any delegation of authority from the Crown in right of Canada, the Crown in right of Alberta, the Parliament of Canada or the Legislature and make by-laws with respect to the matter delegated to it.

Matters that may be included in by-laws

111 When a by-law is authorized to be made under this or any other enactment, the following may be included in the by-law,

(a) a system of granting permits, approvals, licences or similar authority and prohibiting any development, activity, industry, business or thing until the permit, approval, licence or authority has been granted;

(b) the one or more persons, including the settlement council, having authority to issue a permit, approval, licence or authority, whether conditions may be imposed and if so the nature of them and who may impose them;

(c) conditions that must be met before a permit, approval, licence or authority is granted or renewed, the nature of them and who may impose them if they are not specified in the by-law;

(d) provisions governing the duration and the suspension, cancellation or revocation of a licence, permit, approval or other authority for failure to comply with a condition or the by-law or for any other reason specified in the by-law;

(e) the fees, dues, charges or levies payable for any permit, approval, licence or other authorization;

(f) the fees, dues, charges or levies payable for anything provided or done by or on behalf of the settlement or for providing any service or assistance;

(g) the method by which fees, dues, charges or levies or the cost of services or assistance are to be calculated or assessed and collected, the persons by whom, and when they are to be paid, and penalties or interest for non-payment or late payment of money payable and discounts or other benefits for early payment;

(h) require an inspection to be permitted of land, buildings or any apparatus, appliance or other thing in or forming part of a building to determine if this or any other enactment or any by-law is being complied with or to ensure the safety of persons or property.

Money payable is a debt

112 Any fees, dues, charges, levies, taxes, fines, penalties or rents payable by a person to a settlement constitutes a debt due to the settlement and may be recovered as a civil action for debt.

Division 3

Enforcement Powers

Curfew contraventions

113 A minor who is found in a public place contrary to a curfew by-law may be warned to return home by a peace officer and if after the warning the minor refuses or fails to return home he may be taken to his home or to a shelter by the peace officer.

Inspections

114 Any person who is authorized by the settlement council to do so may, at any reasonable time, enter any land, building or premises to inspect it for a nuisance or a contravention of a by-law made by a settlement council under this or any other enactment, Okimawiwin Policy, or a regulation made under this or any other enactment.

Enforcement

115(1) A settlement council or person acting on its behalf may issue a notice

(a) requiring the lessee or occupier of land to remedy, in a manner that the council may direct, any condition on the land that constitutes a nuisance or that contravenes a by-law, an Okimawiwin Policy, or this or any other enactment;

(b) directing the lessee or occupier of land to remove any litter or anything causing or contributing to untidy or unsightly premises or property;

(c) requiring the lessee or occupier of land to construct a fence, wall, screen or similar structure to prevent untidy or unsightly premises from being viewed from any right of way or other public place;

(d) stating that if the lessee or occupier fails, neglects or refuses to remedy any condition, contrary to a by-law, Okimawiwin Policy or this or any other enactment, the council may cause any work to be done that the council considers necessary to remedy it;

(e) warning the person to whom it is directed and the holder of any instrument issued in respect of the land on which the matter complained about is located, that the cost of the work done to remedy the condition may be charged to the lessee or occupier and, in default of payment

(i) the cost may be recovered as a debt due to the settlement, or

(ii) a notification of the cost may be registered in the Metis Settlements Land Registry against the instrument issued in respect of the land on which the matter complained about is located,

and

(f) making any other direction that the council considers necessary.

(2) A person who receives a notice under subsection (1) may appeal the issuance of the notice to the Tribunal by sending a notice of appeal in writing to the Tribunal within 14 days of the date the notice referred to in subsection (1) is received by the person.

Problem remedied

116(1) If a person fails or refuses to comply with a notice under section 115 and no appeal to the Tribunal has been made, or the appeal is denied or not proceeded with, persons authorized by the settlement council may enter on the land or building and take any action necessary to carry out the work required.

(2) The costs and expenses incurred pursuant to subsection (1) may be registered in the Metis Settlements Land Registry against the instrument issued in respect of the land on which the matter complained about is located and shall be paid by the person who holds the instrument but when no instrument has been issued with respect to the land, the costs and expenses shall be paid by the occupier or lessee of the land, or if none, by Okimawiwin.

By-law enforcement

117(1) Subject to the prior approval of the Minister, a settlement council may provide for the appointment of 1 or more by-law enforcement officers and describe their powers and duties.

(2) A by-law enforcement officer is, in the execution of his duties, a person employed for the preservation and maintenance of the public peace.

(3) The settlement council shall, by by-law, establish disciplinary procedures, including procedures, penalties and an appeal process, applicable to by-law enforcement officers with respect to their powers and duties as peace officers.

(4) All by-law enforcement officers shall take the official oath prescribed by the Oaths of Office Act.

Joint enforcement

118 A settlement may enter into an agreement with any other settlement, the Minister on behalf of an improvement district or a municipality to provide for joint law enforcement and such other matters as are agreed upon.

PART 7

MEMBERSHIP

Division 1

Members List

119(1) There is hereby established a list, to be know as the Members List, on which the following information shall be recorded:

(a) the full name of each member;

(b) the date of birth of each member;

(c) the settlement of which the person is a member;

(d) such other information with respect to each member as the Minister and Okimawiwin agree is necessary.

(2) The Minister is responsible for the maintenance of the Members List, but may, by agreement with Okimawiwin, transfer that responsibility to Okimawiwin.

(3) The Members List may be established and maintained as a book or by means of an electronic or computer record.

Transitional provisions

120(1) When this section comes into force, the Minister shall request each settlement council to assist him in reviewing the membership records maintained in respect of settlement associations under the former Act.

(2) If a settlement council or its representative refuses or fails to assist the Minister in a review under this section, the Minister may act alone.

(3) When the Minister and the settlement council or its representative are satisfied that a person

(a) was a member, or

(b) was considered by a settlement council to be a member,

of a settlement association under the former Act on the day immediately preceding the date this section comes into force, that person shall be recorded on the Members List as a member of the settlement whether or not the person meets the requirements for membership of a settlement under this Act.

(4) When either the Minister or the settlement council is not satisfied under subsection (3), the person concerned shall be notified in writing and asked to provide any necessary information.

(5) If, after receiving information from the person concerned, or after any other inquiry considered necessary, the Minister and the settlement council concerned

(a) cannot agree that the person should be recorded on the Members List, or

(b) agree that the person should not be recorded on the Members List,

the person concerned, the Minister or the settlement council may refer the matter to the Tribunal for a decision.

Transitional regulation

121 The Minister may, after consultation with Okimawiwin, by regulation

(a) provide for the manner in which and times within which a review is to be conducted under section 120;

(b) provide for a reference to the Tribunal if a review cannot be completed within prescribed times;

(c) make such other rules respecting the review as may be required.

Tribunal decision

122(1) On receipt of a reference under section 120 or pursuant to regulations under section 121, the Tribunal shall hold a hearing on the matter after giving everyone it considers affected reasonable notice of the date, time and place of the hearing.

(2) The burden of establishing that a person is not a member of a settlement is on the Minister or settlement council asserting that fact.

(3) The Tribunal shall decide whether the person is or is not to be recorded on the Members List as a member of a settlement, but may defer its decision until the person has provided information or complied with conditions specified by the Tribunal.

(4) If the Tribunal decides that a person is to be recorded as a member of a settlement, the person shall be recorded on the Members List accordingly.

Leases

123(1) A person who is not recorded as a member under this Division but who is in possession of a certificate of occupancy under the former Act shall be granted a lease for such period and on such terms and conditions as may be agreed on between the settlement council and the person concerned, and in default of agreement, as determined by the Tribunal, and thereupon his certificate of occupancy is cancelled.

(2) The period and the terms and conditions of a lease determined by the Tribunal under subsection (1)

(a) are binding on both parties and the lease takes effect as it were signed by both parties, and

(b) may provide for compensation for improvements when the lease terminates either as agreed between the settlement and the person concerned, or in default of agreement, as determined by the Tribunal under section 146.

Temporary Members List

124 For the period between the coming into force of this section and the completion of a review of the members of a settlement under this Division, whenever a list of members is required the Minister shall compile a list of members of all or any of the settlements from the information available to him from

(a) files that relate to membership maintained under the former Act, and

(b) information provided by the settlement council and members of a settlement.

Confidentiality

125 Except for the purpose of determining whether a person is or is not a member of a settlement, information on the Members List shall be kept confidential and available only to

(a) the Minister and his authorized representatives;

(b) the Executive Council of Okimawiwin and their authorized representatives;

(c) the member or a person authorized by the member, in respect of information about the member;

(d) the settlement council and its authorized representatives, with respect to members of the settlement.

Division 2

Applications for Membership

Deferral of applications

126(1) Notwithstanding anything in this Part, a settlement council may refuse to consider or defer consideration of all or any kind of application for membership in the settlement until the review of members of the settlement is complete under Division 1.

(2) There is no appeal from a decision of a settlement council under subsection (1).

(3) This section is repealed 2 years after it comes into force.

Membership criteria

127(1) Subject to subsection (2), a person

(a) who is a Metis and at least 18 years old, and

(b) who has

(i) previously been a member of a settlement, or a settlement association under the former Act, for at least 6 months, or

(ii) resided in Alberta for at least 5 years immediately preceding the date of his application for membership,

may apply for membership in a settlement.

(2) An Indian registered under the Indian Act (Canada) or a person who is registered as an Inuit for the purposes of a land claims settlement is not eligible to apply or to be recorded as a member of a settlement unless

(a) that person was registered as an Indian or an Inuit before he became 18 years old,

(b) the person resided on the settlement area for a substantial period of his childhood;

(c) when he applies, one or both of the person's parents are, or at their death were, members of a settlement, and

(d) the person establishes that he is committed to Metis culture.

Note: A further subsection to deal with hardship cases is also under consideration - for example it might read as follows:

> (2.1) Notwithstanding subsection (2), an Indian registered under the Indian Act (Canada) or a person who is registered as an Inuit for the purposes of a land claims settlement is eligible to apply for membership in a settlement if the applicant
>
> (a) is committed to Metis culture, and
>
> (b) as a child, lived in the settlement area for a substantial part of his childhood.
>
> Further advice is anticipated on this issue in due course.

(3) An individual is not entitled to be recorded as a member of more than one settlement, but if he is so recorded he shall decide the settlement of which he is to remain as a member forthwith after a request is made of him to do so.

Metis children

128(1) In this section "Metis child" means the minor child or adopted minor child of a member.

(2) Every Metis child who resides with a member may be recorded on the Members List as the child of a member of the settlement.

(3) A Metis child has such rights and privileges as are prescribed by the by-laws of the settlement council of the settlement of which the child's parent is a member.

Temporary memberships

129(1) When a minor child of a member who resides with a member reaches 18 years of age he retains the rights and privileges of a child of a member until he becomes 19 years of age unless, while he is 18 years of age

(a) his application for membership is refused, or

(b) he becomes ineligible to become a member under section 127(2).

(2) If an 18 year old child of a member fails to make an application for membership before he becomes 19 years of age his rights and privileges as a child of a member terminate when he becomes 19 years of age.

(3) An 18 year old child of a member may be granted temporary membership of a settlement for a period of not more than 6 months by the settlement council when he becomes 19, if his application has been previously submitted but no decision has been made whether to approve his application.

(4) A temporary member under subsection (3) has such rights and privileges as a temporary member as the by-laws of the settlement prescribe.

Proving Metis identity

130(1) Unless a by-law otherwise provides, every application for membership in a settlement shall be made on a form prescribed by by-law and sent to the settlement office.

(2) Every application for membership shall be accompanied by

(a) a statutory declaration by the applicant that

(i) he has aboriginal ancestry, describing the facts on which his declaration is based;

(ii) he identifies with Metis history and culture;

(b) one or more of the following:

(i) genealogical records as evidence that he has aboriginal ancestry,

(ii) the statutory declaration of at least 2 Metis who are recognized as Metis elders that the applicant has aboriginal ancestry, describing the facts on which the declaration is made, or

(iii) such other evidence satisfactory to the settlement council that the applicant has aboriginal ancestry;

(c) an address to which notices and decisions may be sent.

Considering applications

131(1) A settlement council shall consider every application for membership made to it within 90 days of the application being received at the settlement office.

(2) The settlement administrator shall give to the applicant for membership reasonable notice of the date, time and place that the settlement council proposes to consider the application.

Decision on applications

132(1) Before the settlement council makes a decision on an application for membership, it shall give the applicant a reasonable opportunity of providing evidence to the council in support of his application, and to a hearing if the applicant requests it.

(2) Within 45 days after considering an application, or any longer period agreed to by the applicant and the settlement council, the settlement council shall send to the applicant a notice of its decision stating that the application

(a) is approved,

(b) is deferred pending further information or compliance with specified conditions,

(c) is deferred because of a lack of suitable living accommodation, or

(d) is refused.

(3) When an application is deferred or refused, the notice shall give the reasons for the decision.

(4) If an application is deferred because there is a lack of suitable living accommodation in the settlement area, the settlement council may, in accordance with the by-laws, establish a waiting list of persons who have priority for membership when living accommodation is available.

(5) A settlement council shall send a copy of every decision made by it under this section to the Minister.

Limits on membership

133(1) An application for membership in a settlement shall not be approved unless the settlement council is satisfied that the applicant

(a) is a person of aboriginal ancestry who identifies with Metis history and culture,

(b) has or will have suitable living accommodation in the settlement area, and

(c) is committed to living in the settlement area and preserving a peaceful community.

(2) No application for membership in a settlement shall be approved if the applicant

(a) is a member of another settlement,

(b) is in debt to the settlement or any other settlement, unless

(i) satisfactory written arrangements have been made to pay the debt, and

(ii) he is not in arrears in his payments,

or

(c) is an Indian under the Indian Act (Canada) or an Inuit registered for the purposes of a land claims agreement unless

(i) that person was registered as an Indian or an Inuit before he became 18 years old,

(ii) the person resided on the settlement area for a substantial period of his childhood;

(iii) when he applies, one or both of the person's parents are, or at their death were, members of a settlement, and

(iv) the person establishes that he is committed to Metis culture;

(d) fails to commit himself to preserving a peaceful community and complying with this Act, the by-laws and Okimawiwin Policy.

Note: An additional section for "hardship cases" may be needed - see the note to section 127(2).

Membership approvals

134(1) When an application for membership is approved by the settlement council or by the Tribunal, the settlement council or the Tribunal, as the case may be, shall

(a) notify the person responsible for maintaining the Members List, and

(b) provide the necessary information to the appropriate record to be made on the Members List.

(2) On receipt of notice that a person has been approved for membership in a settlement, the Minister, or the secretary of Okimawiwin, as the case requires, shall cause that fact to be recorded in the Members List accordingly.

(3) An applicant for membership in a settlement becomes a member when the settlement council, or on appeal, the Tribunal, approves the application for membership and the applicant is recorded on the Members List.

Membership records

135(1) Every settlement council shall maintain at the settlement office a proper record of

(a) applications for membership and the decisions made about them, including copies of the notices issued, and

(b) any other information about its members that it considers appropriate.

(2) A member, or a person authorized by him, is entitled to examine the records under subsection (1) with respect to information about the member, at any reasonable time.

Appeal

136 If a settlement council refuses or defers an application for membership or an application is not considered or a decision is not made by the settlement council within the required time, the applicant may, in writing,

(a) within 45 days of receiving notice of the refusal or deferral, or

(b) within 45 days of the date the council should have made the decision,

as the case may be, appeal to the Tribunal.

Tribunal decision

137(1) On receipt of an appeal under section 136, the Tribunal shall hold a hearing after giving everyone it considers affected reasonable notice of the date, time and place of the hearing.

(2) In making its decision, the Tribunal may make any 1 or more of the following decisions:

(a) any decision that the settlement council could have made,

(b) confirm the settlement council's decision, with or without changes,

(c) vacate the council's decision,

(d) substitute a decision of its own, or

(e) refer the matter back to the settlement council with or without suggestions or recommendations.

(3) Where the Tribunal refers a matter back to the settlement council, the subsequent decision of the council may be appealed to the Tribunal by the applicant.

(4) The Tribunal shall send a copy of every decision made by it under this section to the person responsible for maintaining the Members List.

Division 3
Settlement Members

Leave of absence

138(1) A leave of absence shall be deemed to have been granted to a member who temporarily ceases to reside on the settlement

(a) because of his appointment or election to the Executive Council of Okimawiwin, or to public office requiring residence elsewhere;

(b) for educational reasons;

(c) as a result of imprisonment;

(d) for medical reason;

(e) as a result of military or police service,

if the member appropriately maintains a residence in the settlement area.

(2) A settlement council may, subject to any terms and conditions it may impose, grant a leave of absence from the settlement area for any reason, other than those specified in subsection (1), that appears reasonable to the council.

Termination for absence

139(1) Subject to section 140, a settlement council may, by by-law, terminate the membership of a member if

(a) the member has ceased to reside on the settlement and has expressly or impliedly abandoned his membership;

(b) the member has not resided on the settlement for 12 consecutive months or more, unless

(i) the member is on a leave of absence permitted under section 138(1),

(ii) the member has permission from the council to be absent under section 138(2), or

(iii) there is other sufficient cause for the member to be absent from the settlement area.

(2) A member who is absent from the settlement under section 138

shall be considered to be a resident of the settlement for all purposes.

Right to be heard

140(1) No by-law making a termination order shall be given 1st reading unless at least 30 days written notice of the proposed by-law is given to the member and the date, time and place on which 1st reading is proposed.

(2) On the day proposed for 1st reading the settlement council shall, if the member requests, give the member a reasonable opportunity of providing evidence to the council as to why the by-law should not be given 1st reading.

(3) After hearing the member, the settlement council may vote as to whether to give the proposed by-law 1st reading.

Notice of decision

141(1) If a by-law terminating the membership of a member is passed, a copy of it shall be sent to the member and to the person responsible for maintaining the Members List.

(2) The member may, by sending a written notice of appeal within 30 days of receipt of the by-law, appeal the decision to terminate his membership to the Tribunal.

Tribunal decision

142(1) Within a reasonable time after the receipt of a notice of appeal under section 141, the Tribunal shall hold a hearing after giving everyone it considers affected reasonable notice of the date, time and place of the hearing.

(2) In making its decision, the Tribunal may do any 1 or more of the following:

(a) make any decision that the settlement council could have made;

(b) confirm the council's decision, with or without changes;

(c) vacate the council's decision;

(d) substitute a decision of its own;

(e) refer the matter back to the settlement council with or without suggestions or recommendations;

(f) reinstate the person's membership.

(3) Where the Tribunal refers a matter back to the settlement council, the subsequent decision of the council may be appealed to the Tribunal by the applicant.

(4) The Tribunal shall provide copies of its decisions to the appellant, settlement council and the person responsible for maintaining the Members List.

(5) On receipt of a decision terminating the membership of a member of a settlement by the Tribunal, the person responsible for maintaining the Members List shall forthwith cause the name of the person concerned to be removed from the List.

Deemed termination

143(1) A member automatically terminates his membership in a settlement if

(a) he becomes registered as an Indian under the Indian Act (Canada), or

(b) he becomes registered as an Inuit for the purpose of a land claims agreement.

(2) On receipt of a confirmation that a person's membership has been terminated under subsection (1), the person responsible for maintaining the Members List shall forthwith cause the name of the person concerned to be removed from the List.

Effect of termination

144(1) An individual whose membership on a settlement is terminated loses any right to reside on or occupy land in the settlement area but

(a) may be entitled to be compensated by the settlement for improvements made by him under subsection (2), and

(b) the termination of the membership of a person does not affect any right provided under this or any other enactment to the member's spouse or minor children to continue to reside on or occupy land in the settlement area.

(2) A settlement council and person whose membership has been terminated may agree on the compensation to be paid to the member for improvements made by the member on land held by him under a certificate of occupancy, provisional certificate or allotment under section 177 but if they cannot agree, the matter may be referred to the Tribunal by any party.

Land allocation cancelled

145(1) A certificate of occupancy, provisional certificate or allotment under section 177 is cancelled

(a) on the termination of a member from membership in a settlement, or

(b) if an appeal is made, on confirmation of termination of membership by the Tribunal, or the conclusion of an unsuccessful appeal by the member to a court of competent jurisdiction.

(2) The cancellation of a certificate of occupancy, provisional certificate or allotment under section 177 does not affect any right of the spouse or the minor children of the former member of continuing to reside or occupy land in the settlement area that is the subject of the certificate or allocation.

Note: 1. It is proposed that amendments to other Provincial legislation will protect the interests of a spouse and children in much the same way as those interest would be protected in respect of land outside settlement areas.

2. The amendments to other legislation will also ensure that settlement land cannot leave the ownership of Okimawiwin.

3. The amendments proposed will be developed in consultation with the Federation and on the basis of advice received.

Compensation

146(1) If the Tribunal is required to determine the amount of compensation for improvements payable to a person whose membership in a settlement is terminated, the Tribunal shall

(a) consider the replacement value and fair market value of the improvements and determine which is the more appropriate to apply, or if neither is appropriate, determine how the value should be determined, if at all;

(b) take into consideration the reason why the person's membership was terminated;

(c) take into consideration any benefits that the member received to make or provided in connection with the improvements and the cost incurred and work done by the member respecting the improvements;

(d) consider anything the person could or should have done to mitigate any loss he may suffer;

(e) reduce the compensation payable, if any, by any debt due to a settlement by the person;

(f) consider in all the circumstances whether fairness requires that the person should be compensated at all, or for all or some of the improvements, and if so the amount of compensation to be paid.

(2) The settlement of which the person was a former member is liable to pay any award of compensation made by the Tribunal under subsection (1).

PART 8

LAND IN SETTLEMENT AREAS

Division 1
Metis Settlements Land Registry

Registrar

147 In accordance with the Public Service Act, there shall be appointed a Registrar of the Metis Settlements Land Registry.

Regulations

148(1) The Lieutenant Governor in Council may make regulations

(a) establishing the Metis Settlements Land Registry and a system for the registration of rights, interests and other matters with respect to land in the settlement areas;

(b) adopting all or part of the Land Titles Act, with or without modifications;

(c) respecting the issue of certificates of occupancy, provisional certificates and other instruments considered necessary with respect to land in a settlement area;

(d) determining the priorities of any interests filed or registered and the legal effect of filing or registration;

(e) respecting the resolution of disputes over matters arising under the regulations;

(f) respecting the transfer of rights and interests registered or recorded under or pursuant to the former Act and the Land Titles Act, to the system established under the regulations;

(g) providing for the transitional period during the recording, under this Act, of rights and interests under the former Act or any other enactment and the verification of those rights or interests;

(h) respecting the fees payable for anything registered or recorded in the Metis Settlements Land Registry.

(2) The regulations under subsection (1) shall contain provisions which enable Okimawiwin and the settlements to obtain access to the information contained in the Metis Settlements Land Registry.

Note: It is anticipated that an expanded regulation making power will be required after research into the details required for the establishment and operation of the registry system.

It is anticipated that the land registry system will be developed in consultation with the Federation of Metis Settlements and other potential users of the system.

Effect of registration

149(1) Notwithstanding anything in the Land Titles Act, any instrument registered or filed with the Registrar of Titles under the Land Titles Act in respect of land granted to Okimawiwin by letters patent issued under section 150 has no effect unless the instrument has been registered or filed, as the case may be, with the Registrar of the Metis Settlements Land Registry.

(2) Except as may be otherwise provided in the land registry regulations, the Land Titles Act does not apply to settlement areas.

__Note__: If __all__ the land in settlement areas is not conveyed to Okimawiwin, the __Land Titles Act__ would apply to the land that is retained by other fee simple owners.

Division 2

Limits on Dispositions of Patented Land

Definition

150 In this Division, "patented land" means the land granted, conveyed and assured to Okimawiwin by letters patent.

Letters Patent

151(1) Her Majesty in right of Alberta may grant, convey and assure, by letters patent to Okimawiwin, such estate and interest in the land as Her Majesty may describe in the letters patent, subject to such exceptions, reservations, conditions and prohibitions as may be specified in the letters.

(2) The letters patent issued pursuant to subsection (1) shall not be registered or filed under the __Land Titles Act__.

Limits on alienation

152(1) The freehold estate in patented land shall not be mortgaged, charged or given as security for anything.

(2) No person shall take the freehold estate in patented land as security for any purpose.

Exemption from seizure

153 The freehold estate in patented land is exempt from seizure or sale under court order, writ of execution or any other process

whether judicial or extra judicial.

Limits on disposition of freehold

154 The freehold estate in patented land shall not be sold, given, exchanged, transferred or otherwise alienated or disposed of.

Limits on other dispositions

155(1) A right or interest in the freehold estate of patented land may only exist

(a) pursuant to or by virtue of a specific provision of this or any other enactment,

(b) pursuant to or by virtue of an Okimawiwin Policy.

(2) Okimawiwin shall not lease, licence, permit, alienate or otherwise dispose or deal with any right or interest in the freehold estate of patented land except as provided by or pursuant to Okimawiwin Policy.

(3) An Okimawiwin Policy referred to in subsection (2) shall

(a) describe the right or interest created;

(b) specify the person having authority to create or issue the right or interest;

(c) specify any conditions, restrictions, exceptions, reservations or prohibitions attaching to the creation or use of the right or interest;

(d) govern such other matters as may be necessary to establish and use the right or interest, subject to such conditions as are required.

Overriding section

156(1) Any agreement or transaction which contravenes or purports to contravene anything in this Division is against public policy and void.

(2) This section applies notwithstanding any other enactment to the contrary.

> Note: The limits on the alienation or disposition of freehold and rights and interests in the freehold of patented land are subject to further review and consideration by the Federation.

PART 9

SUBDIVISION OF SETTLEMENT AREAS

Definition

157 In this Part, "Metis Subdivision Regulation" means the regulations made under section 175;

Application of Part

158 This Part and by-laws respecting development and use of land or buildings do not apply when a development or a subdivision is effected solely for the purpose of

(a) a well or battery within the meaning of the Oil and Gas Conservation Act, or

(b) a pipeline or an installation or structure incidental to the operation of a pipeline.

Note: As the land registry system is developed additional exemptions may be desireable.

Delegation of subdivision approving authority

159 The Minister may, in writing, delegate to Okimawiwin subdivision approving authority when

(a) an Okimawiwin Policy respecting planning and land use is in effect, and

(b) by-laws of settlements are enacted that are consistent with Okimawiwin Policy on planning and land use, and the delegation may apply with respect to all settlement areas or to those named in the delegation.

Subdivision of settlement land

160(1) Except as permitted in the Metis Subdivision Regulation, the Registrar shall not accept for registration an instrument that has the effect or may have the effect of subdividing land in a settlement area unless the subdivision has been approved by the subdivision approving authority.

(2) The Registrar shall not accept a caveat for registration that relates to an instrument that has or may have the effect of subdividing land in a settlement area unless subdivision approval has been granted in respect of that subdivision.

Application for subdivision approval

161(1) Only a settlement council or Okimawiwin may apply to the subdivision approving authority for subdivision approval.

(2) On receipt of an application for subdivision approval, the subdivision approving authority shall send a copy of the application to the persons specified in the Metis Subdivision Regulation.

(3) In accordance with the Metis Subdivision Regulation, an applicant for subdivision approval shall submit with his application to the subdivision approving authority a proposed plan of subdivision or other instrument describing the subdivision.

Hearing unnecessary

162 A subdivision approving authority is not required to hear

any representation with respect to an application for subdivision approval.

Approval

163(1) The subdivision approving authority shall not approve an application for subdivision approval unless

(a) the land that is proposed to be subdivided is, in the opinion of the subdivision approving authority, suitable for the purpose for which the subdivision is intended;

(b) the proposed subdivision conforms to the provisions of any Okimawiwin Policy, general plan or land use by-law that affects the land proposed to be subdivided;

(c) the proposed subdivision complies with this Act and the Metis Subdivision Regulation;

(d) the settlement council and the Executive Council of Okimawiwin approve of the subdivision.

(2) The subdivision approving authority may approve or refuse an application for subdivision approval.

Conditions on subdivision

164 The subdivision approving authority may impose any conditions permitted to be imposed by the Metis Subdivision Regulation on a subdivision approval issued by it or any condition necessary to ensure that this or any other enactment, and any Okimawiwin Policy, general plan or land use by-law affecting the land proposed to be subdivided are complied with.

Notice of decision

165(1) A decision of the subdivision approving authority shall be given in writing and sent to the settlement council and the Executive Council of Okimawiwin.

(2) If the subdivision approving authority refuses an application for subdivision approval, the decision shall contain reasons for the refusal.

Public rights of way and utilities

166(1) Okimawiwin shall provide to the Crown in right of Alberta or person specified in the Metis Subdivision Regulation, without compensation, an interest in land that is the subject of a proposed subdivision and that is required for a public right of way or public utility.

(2) The subdivision approving authority shall determine the amount and location of the interest in land required under subsection (1), if any.

Registration of subdivision instruments

167(1) The applicant for subdivision approval shall submit to the subdivision approving authority the plan of subdivision or other instrument that effects or will effect the subdivision, within 1 year of the date subdivision approval is given to the application.

(2) On being satisfied that a plan of subdivision or other instrument complies with a subdivision approval and that any conditions imposed have been met, the subdivision approving authority shall endorse the plan or other instrument in accordance with the Metis Subdivision Regulation.

Cancellation of plans

168(1) On the application of the Executive Council of Okimawiwin or a settlement council, the subdivision approving authority may order a plan of subdivision or instrument effecting a subdivision cancelled in whole or in part.

(2) The subdivision approving authority may only make an order under subsection (1) with the consent of

(a) the Executive Council of Okimawiwin;

(b) the settlement council concerned;

(c) every person shown on the Metis Settlements Land Registry as having a right or interest in the land that is the subject of the proposal;

(d) the Minister, if the plan of subdivision shows a public right of way or public utility on the land.

Registrar's duties

169 On receipt of an order under section 168, the Registrar shall

(a) cancel a plan of subdivision in whole or in part, in accordance with the order;

(b) cancel any instrument required by the order;

(c) make any other cancellations and registrations and do all things necessary to give effect to the order.

Off-site levy

170(1) For the one or more purposes referred to in subsection (2), a settlement council may by by-law

(a) provide for the imposition and payment of a levy, to be know as an off-site levy, in respect of land that is to be developed or subdivided, and

(b) authorize an agreement to be entered into in respect of the payment of the levy.

(2) An off-site levy may be used only to pay for all or part of the capital cost of all or any of the following:

(a) new or expanded facilities for the storage, transmission, treatment or supplying of water;

(b) new or expanded facilities for the treatment, movement or disposal of sanitary sewage;

(c) new or expanded storm sewer drainage facilities;

(d) an interest in land required for or in connection with any facilities described in clauses (a) to (c).

(3) An off-site levy imposed under this section may be collected once only in respect of land that is the subject of a development or a subdivision.

(4) A by-law that authorizes an off-site levy shall set out the object of each levy and shall indicate how the amount of the levy was determined.

Condition of issuing development permit

171(1) A settlement council may require with respect to a development that, as a condition of authorizing or permitting the development, the applicant enter into an agreement to do all or any of the following:

(a) to construct or pay for the construction of a public right of way required to give access to the development;

(b) to install or pay for the installation of public utilities or other facilities that are necessary to serve the development;

(c) to pay an off-site levy imposed by by-law.

(2) A settlement council may register a caveat in the Metis Settlements Land Registry in respect of an agreement under this section against the certificate of occupancy, provisional certificate or other instrument issued in respect of the land that is the subject of the development.

(3) If a settlement council registers a caveat under subsection (2), the council shall, when the agreement has been complied with, discharge the caveat.

Oversize improvements

172(1) An agreement under section 170 or 171 may require that the applicant for authority or permission to develop land or buidlings or subdivision approval, pay for all or a portion of an improvement in excess of the requirement for the proposed development or subdivision.

(2) An agreement requiring payment in accordance with subsection

(1) may also provide for the reimbursement of the excess cost paid in accordance with that agreement.

(3) If a settlement has entered into an agreement providing for reimbursement in accordance with subsection (2), the settlement shall, at such time as other land that is benefited by the improvement is developed or subdivided, as the case may be, enter into agreements with applicants for development authority or permission or subdivision approval for that land, requiring those applicants to contribute a proportionate share of the cost of the improvement.

(4) An agreement under subsection (3) may include an allowance for interest charges accumulating from the time that the payment was made under subsection (1) until the contribution is made under subsection (3).

(5) In this section, "improvement" means

(a) a facility or interest in land referred to in section 170(2), or

(b) a public right of way or utility referred to in section 171(1).

General regulations

173(1) The Lieutenant Governor in Council may make regulations

(a) prohibiting or regulating and controlling development in the vicinity of any thing which creates or may create a danger to the health and welfare of any person or property;

(b) prescribing for the purposes of clause (a) those things which create or may create a danger to the health and welfare of any person or property;

(c) authorizing any specified Minister of the Crown or a settlement council, with or without conditions, to exercise any power or duty under the regulation;

(d) directing a settlement council to amend its land use by-law to include any prohibition or regulation and control of development.

(2) A regulation under subsection (1)

(a) may be specific or general in its application, and

(b) operates notwithstanding any general plan, land use by-law or Okimawiwin Policy.

(3) The Lieutenant Governor in Council may make regulations governing the maximum amount that a settlement council may establish or impose and collect as an off-site levy, either generally or specifically.

Airport Vicinity Protection Regulation

174(1) The Lieutenant Governor in Council may make regulations

(a) establishing any part of a settlement area as an airport vicinity protection area;

(b) controlling, regulating or prohibiting any use and development of land within an airport vicinity protection area;

(c) prescribing, with respect to an airport vicinity protection area,

(i) land uses in any part of the area having regard to noise generated by aircraft,

(ii) developments that are permitted, conditionally permitted or prohibited in any part of the area, or

(iii) the maximum height, the bulk, material and orientation of buildings and any other development that may be permitted in any part of the area.

(2) If a regulation made under this section affects an Okimawiwin Policy, Okimawiwin shall amend its Policy to conform with the regulation.

(3) A settlement by-law that is affected by a regulation relating to an airport vicinity protection area shall, if necessary, be amended to conform with the regulation.

Metis Subdivision Regulation

175(1) The Minister may make regulations

(a) prohibiting or controlling and regulating the subdivision of land;

(b) governing the procedure to be followed by applicants for subdivision approval and the persons who may apply;

(c) governing the contents and filing of plans and other documents in the course of an application for subdivision approval;

(d) governing the location, size and shape of lots and other areas of land to be created or proposed to be subdivided;

(e) governing the location of utilities and public rights of way in a proposed subdivision and the minimum width and the maximum gradient of public rights of way;

(f) prescribing the times within which a subdivision approving authority shall make decisions with respect to applications for subdivision approval;

(g) defining any word used in this Part;

(h) prescribing the conditions that a subdivision approving authority is permitted to impose when granting subdivision approval in addition to those conditions permitted to be imposed under this Part.

(2) The Minister may, in writing, delegate to Okimawiwin all or any of his authority under this section, in which case Okimawiwin may make Policies in respect to the matter delegated to it.

PART 10

LAND ALLOCATION IN SETTLEMENT AREAS

Note: This Part cannot be regarded as being a settled proposal, but will provide a basis for further discussion and comment.

Division 1

Transitional

Certificates of occupancy

176 A certificate of occupancy issued under the former Act is deemed to be a certificate of occupancy issued under this Act.

Other allocations

177(1) Subject to section 123, any parcel of land alloted to a member under the former Act in respect of which no certificate of occupancy was issued

(a) continues to be alloted to the member under this Act;

(b) provides to the member the right of exclusive occupation to the land on the condition that productive use is made of it.

(2) An allotment of land under subsection (1) continues until

(a) the allotment is terminated by the settlement council under section 190, or on appeal, by the Tribunal, or

(b) the allotment is terminated by or in accordance with an Okimawiwin Policy.

(3) If a dispute arises over

(a) whether productive use is being made of a parcel of land referred to in subsection (1), or

(b) the termination of an allotment by or pursuant to an Okimawiwin Policy,

the matter may be referred to the Tribunal for a decision as to whether the allotment shall be terminated, continued or continued subject to conditions.

(4) The holder of an allotment under this section is not entitled to lease, assign or in any manner deal with, alienate, encumbrance or dispose of his interest in all or part of the land that is the subject of the allotment, except to relinquish the allotment to the settlement council.

> Note: If this section is satisfactory, the Policy making powers of Okimawiwin would be amended to add the following:
>
> "governing the circumstances under which and the means by which an allocation continued under section 177 may be terminated"

Division 2

Applications for Land

Applications by members

178(1) A member may, on a form prescribed by by-law, apply to the settlement council of the settlement of which he is a member for a provisional certificate in respect of land in the settlement area.

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(2) An application under subsection (1) may only be made

(a) in respect of land that has been or is capable of being subdivided;

(b) in an area designated in a land use by-law as suitable for the use proposed by the applicant;

(c) in respect of an area of land that contains not more than 160 acres;

(d) if the applicant is committed to and capable of the productive use of the land.

Limitation on allocations

179(1) A member shall not apply for, nor be granted, and except as otherwise provided, shall not hold

(a) more than one provisional certificate;

(b) more than one certificate of occupancy;

(c) both a certificate of occupancy and a provisional certificate;

(d) a provisional certificate or a certificate of occupancy in respect of more than 160 acres of land.

(2) A settlement council may refuse to issue a certificate of occupancy or provisional certificate in respect of land against which is registered a notice of a debt due to the settlement.

(3) A member who holds a parcel under section 177 is not eligible and shall not be granted a provisional certificate or

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PART 11

FINANCIAL MATTERS

Settlement funding

198 The Minister may make regulations with respect to all or any of the settlements:

(a) determining the financial year of the settlement;

(b) respecting the preparation and approval of budgets for operating the settlement and for capital projects;

(c) respecting the appointment of an auditor;

(d) governing the audit and inspection of records;

(e) concerning the reporting of financial activity;

(f) respecting any administrative or accounting procedures that may be required;

(g) respecting any prohibitions, conditions, restrictions or limitations on any or all of the matters referred to in this section.

Financial and funding agreements

199 The Minister may enter into an agreement with all or any of the settlements respecting the financial or funding arrangements for them.

certificate of occupancy unless

(a) he applies in respect of an allotment held pursuant to section 177, and

(b) the application does not contravene the limitation on land holding described in subsection (1).

Decision on application

180(1) A settlement council shall make a decision on an application for a provisional certificate within 90 days after receipt of it or any longer period agreed to by the settlement council and the applicant.

(2) If a settlement council refuses an application for a provisional certificate it shall

(a) send notice of its refusal to the applicant, and

(b) give reasons for refusing the application.

(3) If a settlement council refuses an application for a provisional certificate or fails to make a decision within a reasonable time, the applicant may in writing

(a) within 21 days of receiving notice of the refusal, or

(b) within 21 days of the date the settlement council should have made the decision,

as the case may be, appeal to the Tribunal.

Approval

181(1) When a settlement council approves an application for a provisional certificate the council shall

(a) notify the Executive Council of Okimawiwin,

(b) send a copy of its approval to the Registrar,

(c) send a copy of its approval to the applicant, and

(d) specify the period of time, not exceeding 5 years, for which the provisional certificate is issued.

(2) On receipt of a notice of approval of a provincial certificate the Registrar shall

(a) search the title to the proposed land and determine whether

(i) the land has been or is capable of being subdivided, and

(ii) the land is free to be allocated;

and

(b) perform such other functions as the land registry regulations require.

(3) When the Registrar is satisfied under subsection (1), he shall issue a provisional certificate to the member concerned stating

(a) the name of the member;

Appropriated funds

200 The Minister may, with respect to moneys that may be appropriated for the general benefit of the settlements, make an agreement with Okimawiwin for the distribution of those funds in accordance with Okimawiwin Policy.

Assessment and taxation

201 A settlement council has the same power and authority to assess and tax as a council of a municipality has under the Municipal Taxation Act.

Note: This is an expression of principle and the exact nature of the authority will be discussed in connection with a broader range of discussions on matters relating to the financing of the settlements.

Trust fund

202 The Minister, Okimawiwin and every settlement may enter into a trust agreement to provide for all or any of the following matters:

(a) establishing a trust fund and providing for its purpose;

(b) appointing one or more trustees;

(c) respecting the money that is to be paid into the fund or a specified part of it;

(d) respecting the sources of revenue to be paid into the fund;

(e) providing for the division of the fund into such parts as are agreed, with different rules respecting payments into and from each part of the fund;

(f) respecting payments out of the fund;

(g) respecting accounting and administrative records inspections and audits of the fund and its use;

(h) respecting any other matter concerning the administration, operation or management of the fund or the trust agreement as may be required.

Note: There must be a means of transferring the existing trust funds into the trust fund established under this section.
Further discussion on this matter will be required with the Federation.

Grant regulations

203 The Minister may make regulations respecting the grants or the class or type of grants that may be made by all or named settlement councils.

(b) the date the provisional certificate is issued;

(c) the period of time, not exceeding 5 years, for which it is issued;

(d) a description of the land that is the subject of the provisional certificate;

(e) such other matters as may be specified in the land registry regulations,

and record the information in the Metis Settlements Land Registry accordingly, where appropriate stating that the provisional certificate is issued subject to subdivision approval.

(4) If the Registrar is not satisfied with respect to the matters described in subsection (2), he shall notify the applicant and the settlement council accordingly.

Deemed application for subdivision

182(1) If the land that is the subject of a provisional certificate has not previously been subdivided, but the approval by the settlement council is satisfactory in other respects, the Registrar shall

(a) issue the provisional certificate in accordance with section 181, and

(b) send the provisional certificate to the subdivision approving authority who shall treat the provisional certificate as an application for subdivision approval.

(2) If the application for subdivision approval is subsequently refused, the Registrar shall cancel the provisional certificate

and notify the settlement council and the applicant accordingly.

Effect of provisional certificate

183(1) Subject to this Act and Okimawiwin Policy, a provisional certificate provides to the holder the right to exclusive occupancy to the land described on the provisional certificate for the period stated on the provisional certificate.

(2) A provisional certificate may be issued by the settlement council for not more than 5 years but may be renewed by the settlement council not more than once for a further period of not more than 5 years.

(3) On the expiry or cancellation of a provisional certificate, all rights and interests of the holder expire and the person ceases to have any right of occupancy in respect of the land that is the subject of the provisional certificate.

(4) The holder of a provisional certificate is not entitled to lease, assign or in any manner deal with, alienate, encumbrance or dispose of his interest in all or part of the land that is the subject of the certificate, except to relinquish the provisional certificate to the settlement council.

Application for certificate

184(1) When a member who holds a provisional certificate complies with the requirements of a by-law respecting eligibility for a certificate of occupancy, the member may apply to the settlement council for a certificate of occupancy, in respect of the land described in the provisional certificate.

(2) If the settlement council is satisfied that the member has complied with the by-laws, it shall approve the issue of a

certificate of occupancy and notify the applicant and the Registrar accordingly.

(3) If the land has been subdivided, the Registrar shall issue a certificate of occupancy to the member and record the fact in the Metis Settlements Land Registry.

(4) If the Registrar is unable to issue a certificate of occupancy he shall notify the applicant and settlement council accordingly.

Decision

185(1) A settlement council shall make a decision on an application for a certificate of occupancy within 90 days after receipt of the application or any longer period agreed to by the settlement council and the applicant.

(2) If a settlement council refuses an application for a certificate of occupancy it shall

(a) send notice of its refusal to the applicant, and

(b) give reasons for refusing the application.

(3) If a settlement council refuses an application for a certificate of occupancy or fails to make a decision within a reasonable time, the applicant may in writing

(a) within 21 days of receiving notice of the refusal, or

(b) within 21 days of the date the council should have made the decision,

as the case may be, appeal to the Tribunal.

Certificate of occupancy

186(1) Subject to this Act and Okimawiwin Policy, a certificate of occupancy gives the holder the following rights in respect of land for which it is issued

(a) the right to exclusive occupancy of the land;

(b) subject to the approval of the settlement council, the right to grant a licence, permit or lease to another member which, with any right of renewal, shall not exceed or be capable of exceeding 5 years;

(c) such other rights as may be provided by Okimawiwin Policy or settlement by-law.

(2) A certificate of occupancy is subject to such exceptions, reservations, prohibitions, limitations or restrictions as may be prescribed by Okimawiwin Policy.

Leasing of land

187(1) A member may lease to members or persons other than a member all or any part of land the subject of his certificate of occupancy if the settlement council first approves of the lease.

(2) A lease referred to in subsection (1) may be renewed by agreement between the member and the settlement council.

Joint ownership

188(1) A certificate of occupancy or provisional certificate may only be held by one member.

(2) Any certificate of occupancy or provisional certificate

purported to be held as joint tenants or tenants in common is void and of no effect.

Membership termination

189 When the Registrar is satisfied that the membership of a member is terminated he shall, in accordance with section 145, record the cancellation of the certificate of occupancy, provisional certificate or allotment under section 177 in the Metis Settlements Land Registry and notify the settlement council and former member accordingly.

Revocation

190(1) A settlement council, after giving a member reasonable notice of the date, time and place that it proposes to consider the matter and after providing the member concerned with an opportunity to make representations, may revoke a certificate of occupancy, provisional certificate or allotment under section 177 held by the member on any of the following grounds

(a) a persistent failure to comply with the by-laws of the settlement;

(b) a failure to pay any fees, dues, charges, taxes or levies attributable to the land or a use on it;

(c) an absence from the settlement area for 1 year or more during which time the land that is the subject of the certificate of occupancy, provisional certificate or allotment under section 177 has not been productively used.

(2) Notice of a revocation under subsection (1) shall be sent to the holder of the certificate of occupancy, provisional certificate or allotment under section 177, and the Registrar.

(3) A person who is served with a copy of a notice under subsection (2) may, in writing, appeal the notice to the Tribunal within 21 days of receiving it.

Compensation

191(1) A settlement council and a member whose certificate of occupancy, provisional certificate or allotment under section 177 has been revoked may agree on the compensation to be paid to the member for improvements made by the member on the land, but if they cannot agree, the matter may be referred to the Tribunal by either party.

(2) If the Tribunal is required to determine the amount of compensation payable to a member for improvements on land the subject of a former certificate of occupancy, provisional certificate or allotment under section 177, the Tribunal shall

(a) consider the replacement value and fair market value of the improvement and determine which is the more appropriate to apply, or if neither is appropriate, determine how the value should be determined, if at all;

(b) take into consideration the reason why the person's certificate of occupancy, provisional certificate or allotment under section 177 was revoked;

(c) take into consideration any benefits that the member received in connection with the improvements and the cost incurred and work done by the member respecting the improvements;

(d) consider anything the member could or should have done to mitigate any loss he may suffer;

(e) reduce the compensation payable, if any, by any debt due to a settlement by the member;

(f) consider in all the circumstances whether fairness requires that the person should be compensated for all or some of the improvements, and if so the amount of compensation to be paid.

(3) The settlement of which the person is a member is liable to pay any award of compensation made by the Tribunal under subsection (2).

Tribunal decision

192(1) Within 30 days of receiving a notice of appeal under this Part, the Tribunal shall hold a hearing after giving everyone it considers affected reasonable notice of the date, time and place of the hearing.

(2) In making its decision, the Tribunal may:

(a) make any decision that the settlement council could have made,

(b) confirm the council's decision, with or without changes,

(c) vacate the council's decision,

(d) substitute a decision of its own, or

(e) refer the matter back to the settlement council with or without suggestions or recommendations.

(3) Where the Tribunal refers a matter back to the settlement

council, the subsequent decision of the council may be appealed to the Tribunal by the applicant.

(4) The Tribunal shall send a copy of every decision made by it under this section to the settlement council, appellant and the Registrar.

Death of a member

193(1) On the death of a member

(a) an allotment held by the member under section 177 terminates;

(b) a certificate of occupancy or provisional certificate held by the member devolves on the deceased's next of kin who is member but who has no certificate of occupancy or provisional certificate, or if there is no next of kin, the certificate of occupancy or provisional certificate is terminated.

(2) Subsection (1) applies notwithstanding any testamentary disposition or enactment to the contrary.

Note: 1. This section is for discussion purposes only.

2. The question of a certificate of occupancy or provisional certificate devolving to a minor child has been discussed but not resolved. Further discussion about this is needed including the potential involvement of the Public Trustee.

3. One proposal for discussion is that if, on death, a certificate devolves to more than 1 beneficiary (e.g. 2 or more children) then the certificate of occupancy might be converted to some new interest (like a s.177 allocation) as joint tenants until they agree on one person to be named as the holder of the parcel, in which case the allocation would be reconverted to a certificate of occupancy or provisional certificate. In default of naming one person Okimawiwin Policy would settle the matter.

There are difficulties with this proposal and further discussion is necessary.

Disposal of land

194(1) Land that is the subject of a certificate of occupancy, provisional certificate or allotment under section 177 cannot be disposed of or dealt with except as provided in this or any other enactment or pursuant to an Okimawiwin Policy.

(2) A certificate of occupancy or provisional certificate may be relinquished to the settlement council who may notify the Registrar to re-issue it to another member as part of an agreement between the two members and the settlement council.

(3) On receipt of a notice under subsection (2), the Registrar shall issue a certificate of occupancy or provisional certificate accordingly and record that fact in the Metis Settlements Land Registry.

Right of residence

195 A person who is not a member of a settlement has no right to reside in the settlement area unless the person

(a) is part of the immediate family of a member;

(b) is permitted to reside in the settlement area in accordance with a by-law or Okimawiwin Policy;

(c) is a teacher, health care worker or an employee of the settlement council.

Continuing entitlement

196(1) A person who is permitted to reside in a settlement area under section 195 is entitled to continue to reside in the area unless the settlement council, for just cause, orders the person to cease residing in the settlement area.

(2) No order shall be made under subsection (1) unless the person concerned has been given an opportunity to tell the settlement council why he should be able to remain in the settlement area.

Appeal

197 A right of appeal may be required if an expulsion order is made under section 196.

Note: Sections 195-7 require further consideration.

PART 12

GENERAL PROVISIONS

Business Corporations Act

204 The Business Corporations Act does not apply to

(a) the settlements or their activities;

(b) Okimawiwin or its activities.

Planning Act

205 The Planning Act does not apply to land in settlement areas, the activities on them or to settlement councils.

> Note: Further discussion is necessary with the Federation to determine whether the designation of cultural sites should apply under the Planning Act.

Delegation

206(1) The Minister may delegate, in writing, to any person any power or duty conferred or imposed on him by this Act or regulations under this Act.

(2) Subsection (1) does not apply to any power or duty of the Minister to make regulations.

General election dates

207 The Minister may make regulations prescribing the date on which a general election shall be held on all or one or more settlement areas.

Regulations for difficulties

208(1) The Minister may, after consultation with Okimawiwin, make regulations notwithstanding anything in this Act

(a) to provide for the transition from the former Act to this Act;

(b) to resolve questions, difficulties or impossibilities resulting from the application of this Act;

(c) altering, varying or prescribing dates or times, whether or not a period of time for doing anything has expired;

(d) to better provide for the general intent of this Act.

(2) A regulation made under subsection (1) expires on the last day of the session of the Legislative Assembly that immediately follows the making of the regulation.

Official administrator

209 If all the seats on a settlement council become vacant the Minister may, by order, appoint a person to act as official administrator of the settlement who thereon has all the powers and duties of a settlement council including the power to hold an election for the purpose of filling all or some of the vacancies existing on the council.

Services of notices

210(1) When a notice of anything is required to be sent or given to any person under this Act it shall be deemed to have been properly sent or given if

(a) in the case of the Minister, it is sent or delivered to the Minister or deputy Minister's office in Edmonton;

(b) in the case of Okimawiwin or a settlement, it is sent or delivered to the address of Okimawiwin or a settlement, as the case requires, recorded with the Registrar;

(c) in the case of a member, it is sent or delivered to him at the address provided by him or, in default, his address recorded in the Members List.

No compensation

211 No person is entitled to compensation by reason only of the adoption of or the contents of a Metis Settlements Planning Policy or the general plan or land use by-law adopted by a settlement council.

Regional planning commission

212 A settlement council may, with the consent of the Executive Council of Okimawiwin, enter into an agreement with a regional planning commission established under the Planning Act for any purpose considered necessary by the council and the regional planning commission.

PART 13

TRANSITIONAL PROVISIONS

Council

213 The council of a settlement association under the former Act is, until such time as an election is held under this Act, or the expiry of 1 year from the coming into force of this section, whichever is earlier, the settlement council of the settlement established under this Act.

> Note: Other transitional provisions require discussion with the Federation. They will include, for example, a transfer of rights and liabilities of settlement associations.

PART 14

CONSEQUENTIAL AMENDMENTS

Note: There will need to be many consequential amendments to other Provincial legislation. The following is a preliminary list of the Acts likely to require some form of amendment. Please note that the following lists are preliminary only and further review and discussion may make amendments unnecessary or move an Act from one proposed category to another.

1. Category A

The following is a list of Acts that will probably apply to settlements but which will require amendment to ensure a settlement is covered by the Act. In some cases the amendment is simple (e.g., expanding the definition of "council" or "municipality") in other cases it is much more complex.

1. Alberta Municipal Financing Corporation Act
2. Border Areas Act
3. Cemeteries Act
4. Crown property Municipal Grants Act
5. Department of Housing Act
6. Department of Public Works, Supply and Service Act
7. Hydro and Electric Energy Act
8. Health Unit Act
9. Highway Traffic Act
10. Historical Resources Act
11. Improvement Districts Area
12. Insurance Act
13. Insurance Corporations Act
14. Jury Act
15. Libraries Act
16. Liquor Control Act
17. Land Agents Licensing Act
18. Local Authorities Pension Act
19. Land Surface Conservation and Reclamation Act
20. Maintenance Orders Act
21. Maintenance and Recovery Act
22. Motor Vehicle Administration Act
23. Municipal Debentures Act
24. Municipal Land Loans Act
25. Nursing Homes Act
26. Nursing Service Act
27. Off-Highway Vehicle Act
28. Oil and Gas Conservation Act
29. Plumbing and Drainage Act
30. Public Safety Services Act

31. Recreation Development Act
32. Regional Municipal Services Act
33. Local Authorities Election Act

2. Category B

The following list of Acts are those which might need to be amended. This might be legislation that would apply to a settlement if the settlement sought to have jurisdiction and the Minister agreed.

1. Agricultural Service Board Act
2. Alberta Mortgage and Housing Corporation
3. Family and Community Support Services Act
4. Fire Prevention Act

3. Category C

The following Acts would apply to the settlements but some amendment is required before they could do so.

1. Evidence Act
2. Alberta Government Telephones Act
3. Dower Act
4. Matrimonial Property Act
5. Department of Municipal Affairs Act
6. Drainage Districts Act(?)

4. Category D

The following Act would apply to the settlements with the probability of the Minister acting on behalf of a settlement council but having authority to delegate authority to it by agreement:

1. Agricultural Chemicals Act
2. Agricultural Pests Act
3. Hospital Act
4. Highway Traffic Act
5. Litter Act
6. Livestock Diseases Act
7. Police Act
8. Public Health Act

5. Category E

The following list of Acts are not easy to categorize and further consideration of them is required.

1. Assessment Appeal Board Act
2. Electrical Power and Pipeline Assessment Act
3. Forest and Prairie Protection Act (cost implications)
4. Irrigation Act
5. Local Authority Board Act
6. Local Tax Arrears Consolidation Act
7. Law of Property Act
8. Municipal Land Loans Act
9. Municipal and Provincial Properties Valuation Act
10. Municipal Tax Exemption Act
11. Municipal Taxation Act
12. Property Tax Reduction Act
13. Public Highway Development Act
14. Public Lands Act
15. Public Utilities Board Act
16. Railway Act (re expropriation powers)
17. Rural Gas Act (re: utilities)
18. Rural Electrification Act
19. Municipalities Assessment and Equalization Act
20. Veterans Land Act

    Note: There may be a Veteran Land "ownership" on the settlements and agreements respecting those rights will be protected if any exist.

21. Expropriation Act (subject to the Alberta Act)
22. Surface Rights Act - special panels; new head of damages
23. Energy Resources Conservation Act - special panels

Repeal

214 The Metis Betterment Act is repealed on Proclamation.

Coming into force

215 This Act comes into force on Proclamation.

Note: A detailed review of the existing regulations under the Metis Betterment Act has not been completed and that review will likely affect some of the provisions of this draft.

Further discussion on this matter will be required with the Federation.

SCHEDULE 1

BY-LAWS

Division 1

By-law Making Authority of Settlement Councils

General governance

1 A settlement council may make by-laws for the general governance of the settlement area.

Internal management

2 A settlement council may make by-laws for the internal management of the settlement and may make by-laws

(a) respecting the kinds or classes of agreement that may be approved by or under the authority of a resolution instead of by by-law for the purposes of section 5(2);

(b) respecting the persons who are authorized to sign agreements on behalf of the settlement and any terms or conditions attached to the authorization;

(c) respecting the manner in which notices of special meetings are to be given and the means of recording how and when notice was given and to whom;

(d) respecting the establishment, maintenance and safekeeping of the minute book of the council, by-laws and other records of the settlement;

(e) respecting applications for membership in a settlement and the forms required to be completed by applicants;

(f) respecting the establishment of waiting lists of members and the reasons that one application may be given priority over another;

(g) prescribing forms for the purposes of the Act;

(h) prescribing the period of time that documents must be posted for the purposes of section 47.

Health, safety and welfare

3 A settlement council may make by-laws for promoting the health, safety and welfare of the residents of the settlement area.

Public order and safety

4 A settlement council may make by-laws respecting public order and safety including

(a) prohibiting or regulating the discharge of firearms as defined in section 82(1) of the Criminal Code (Canada);

(b) prohibiting or regulating activities or conduct offensive to or not in the public interest as determined by the council;

(c) establishing curfews for children who are not accompanied by an appropriate guardian and providing for penalties in respect of parents or guardians whose children contravene the by-law.

Fire protection

5 A settlement council may make by-laws for the prevention and extinguishment of fires, the preservation of life and property and the protection of persons from injury or destruction by fire including

(a) prohibiting interference with the efforts of persons engaged in the extinguishing of fires or prevention of the spreading of fire, by regulating the conduct of persons at or in the vicinity of any fire;

(b) prohibiting or regulating the storage or transportation of explosives or other flammable or dangerous matter;

(c) prohibiting or regulating any conduct, activity or other thing which is or may become a fire hazard.

Nuisances and pests

6 A settlement council may make by-laws

(a) prohibiting unsightly or untidy land or buildings or anything on land that is unsightly or untidy;

(b) prohibiting or regulating noise generally or during specified periods throughout or in designated areas of the settlement area;

(c) requiring or providing for the removal or burning of trees or shrubs that may interfere with settlement works or utilities;

(d) regulating or controlling activities for the purpose of eliminating or mitigating animal or insect pests and diseases.

Animals

7 A settlement council may make by-laws

(a) preventing the leading, riding and driving of cattle or horses in any public place;

(b) prohibiting or regulating the running at large of dogs and other animals, and

(i) providing for the impounding of dogs running at large and for the killing, sale or other disposition of impounded dogs if not claimed from the pound within a specified time with any conditions governing payment of costs and expenses and removal from the pound that the by-law provides,

(ii) licensing dogs and classifying dogs for licensing purposes,

(c) regulating the keeping by any person of wild or domestic animals or poultry;

(d) prohibiting the keeping by any person of wild or domestic animals or poultry in any specified part or parts of the settlement area when, in the opinion of council, that keeping is likely to cause a nuisance;

(e) for the prevention of cruelty to animals.

Airports

8 A settlement council, subject to any Act of the Parliament of

Canada may make by-laws establishing, controlling, operating or maintaining an airport, aerodrome or seaplane base.

Posters and advertising

9 A settlement council may make by-laws

(a) prohibiting or regulating the posting or exhibition of pictures, posters or other material;

(b) respecting the removal of anything posted or exhibited contrary to the by-law;

(c) prohibiting or regulating the size, use and placement of advertising devices.

Refuse disposal

10(1) A settlement council may make by-laws

(a) defining "refuse" for the purpose of this section and the by-law;

(b) prohibiting or regulating the placement or depositing of refuse;

(c) regulating the activities or use of waste disposal sites established by the settlement council;

(d) establishing and regulating a system for the collection and disposal of refuse.

(2) If a settlement council establishes a system for the collection and disposal of refuse, whether the settlement undertakes the collection and disposal of the refuse or does so

by contract, all refuse collected becomes the property of the settlement and may be sold, destroyed or otherwise disposed of as the council directs.

Public health

11 A settlement council may make by-laws

(a) providing for the health of the residents of the settlement area and against the spread of diseases;

(b) regulating and controlling the use of wells, springs and other sources of water for the settlement area and preventing the contamination of it or of any lake, stream or water in the settlement area;

(c) compelling the removal of dirt, filth or rubbish or any other obstructions from public rights of way or private roads by the person depositing it and providing for the removal at the expense of the person if he defaults;

(d) compelling the removal from any place within the settlement area of anything considered dangerous to the health or lives of the inhabitants.

Parks and recreation

12 A settlement council may make by-laws respecting the regulating of activities and equipment in

(a) parks or recreation area;

(b) trailer courts or mobile home parks;

(c) campgrounds;

(d) exhibition or rodeo grounds.

Control of business

13(1) A settlement council may make by-laws to control and regulate businesses, industries and activities carried on in the settlement area including

(a) the manner and nature of their operation,

(b) the location of them,

(c) prohibiting any business, industry or activity without a licence which may apply to persons who carry on the business, industry or activity partly in and partly outside the settlement area,

(d) making any provision of the by-law applicable to one or more businesses, industries or activities or one or more classes of them,

and may licence any or all those businesses, industries or activities,

(e) whether or not the business, industry or activity is mentioned elsewhere in this Act, and

(f) whether or not the business, industry or activity has an office in the settlement area.

(2) The power to license a business, activity or industry includes the power to specify the qualifications of the persons carrying on the business or industry and the conditions on which the licence shall be granted.

(3) A council may, in a by-law

(a) provide for the classification of businesses, activities and industries for the purposes of the by-law;

(b) prescribe different licence fees for different classes of businesses, activities and industries.

Installation of water and sewer connections

14(1) A settlement council may make by-laws

(a) directing that the owner of any building situated on land abutting a street or public place in which there is a sewer and water main, to install, in the building, connections with the sewer and water mains, and any apparatus and appliances required to ensure the proper sanitary condition of the building and premises;

(b) preventing the use or continuance of any toilet that is not connected with the sewer and providing for them to be removed or filled up;

(c) directing the owner of any building, erection or structure situated on land abutting any public right of way or private road where a system of storm sewers is constructed to connect his building, erection or structure to the system.

(2) If the owner fails or refuses to comply with a direction under subsection (1) within the period of time fixed by the settlement council, an authorized agent of the settlement council may enter on the land and building concerned and make the connection and charge the cost of it against the land, building, erection or structure concerned.

Sewerage system fees

15 A settlement council may impose and collect a service charge to be determined by the council in a manner it considers equitable, payable by all persons occupying property connected with the sewerage system of the settlement, having regard to the cost of the sewerage system and to the cost of treatment and disposal of sewage and the services respectively rendered with respect to those properties.

Special charges

16 A settlement council may by by-law impose special levies for the purposes set out in this section and may provide for the charging of admissions or the raising of funds as the council may decide

(a) establishing and maintaining swimming pools;

(b) acquiring, erecting and operating skating rinks;

(c) providing recreation and community services and facilities to residents.

Division 2

By-laws that can be made if there is an Okimawiwin Policy in Effect

Matters requiring a Policy

17 If there is an Okimawiwin Policy in effect, a settlement council may, in accordance with that Policy make by-laws:

(a) prohibiting persons who are not members from hunting, trapping, gathering or fishing on the settlement area;

(b) prescribing the terms and conditions under which a person or class of persons are permitted to occupy, hunt, trap, gather or fish on the settlement area;

(c) prescribing the manner in which and the terms and conditions subject to which a member may acquire

(i) the right to trap, hunt or gather on the settlement area;

(ii) the right to fish in a marsh, pond, lake, stream or creek within the settlement area;

and the circumstances under which that right may be suspended, limited or revoked;

(d) as to the use by members of a part of the land allocated for occupation by a settlement council in respect of which no person has the exclusive right of occupation;

(e) respecting the cutting of timber on all or a part of the settlement area;

(f) prescribing the amount of timber that may be cut;

(g) as to the disposition of the timber cut;

(h) as to the disposition of the proceeds of the sale of the timber cut;

(i) prohibiting the cutting of timber otherwise than in accordance with the by-laws;

(j) respecting the requirements to be met for the improvement, cultivation or breaking of land that a member must meet before the member becomes eligible to apply for a certificate of occupancy;

(k) respecting the rights and privileges of a minor child or adopted minor child of a member or a temporary member and the circumstances under which all or any of those rights or privileges may be suspended or terminated.

Division 3

Planning and Land Use

Land use policy

18(1) The by-laws described in this Division may only be made after Okimawiwin has established a Policy for land use and development of settlement areas.

(2) An Okimawiwin Policy made pursuant to subsection (1) shall provide a means by which buildings or uses of land that do not conform or comply with a proposed land use by-law are permitted to continue or to continue subject to conditions.

General Plan

19(1) A settlement council may, by by-law, adopt a general plan for the settlement to be known as the "(name of settlement)" General Plan.

(2) A general plan shall

(a) describe the land uses proposed for the settlement area;

(b) describe the proposals for future development in the settlement area;

(c) describe how and when services are proposed to be provided to isolated areas or to residences not serviced, if at all;

(d) if development is proposed in the plan, provide an estimate of the cost and the means by which funds required to complete the development are to be obtained;

(e) contain any other matters the settlement council considers necessary.

(3) After first reading of a by-law adopting a general plan, but before second reading, the settlement administrator shall send a copy of the proposed plan to the Executive Council of Okimawiwin.

Land use by-law

20(1) A settlement council may pass a by-law to be know as "(name of settlement) Land Use By-law".

(2) A land use by-law may prohibit or regulate and control the use or development of land or buildings, or both, in the settlement area and may

(a) provide for 1 or more uses of land, including uses for traditional pursuits in prescribed ares of the settlement;

(b) describe the density of population or intensity of use of land or buildings in any area of the settlement in any manner it considers appropriate;

(c) regulate the use, location, size and height of buildings;

(d) provide for a development agreement to be entered into by the settlement council with any person proposing the development or use of land or buildings, and governing the terms and conditions under which the development or use is permitted;

(e) include such other matters that the settlement council considers necessary for the proper planning of or the proper development or use of land or buildings in the settlement area.

(3) A land use by-law may adopt maps or plans showing the location or proposed location of the development or use of land or buildings and the location of public right of ways, private roads and public facilities.

System of approvals

21 If a land use by-law requires that all or some kinds of development or use of land or buildings be approved, the by-law

(a) shall specify whether the settlement council, or a person designated as "development officer", is to make a decision whether to approve the development or use of land or buildings, with or without conditions, or refuse the application;

(b) shall describe the development or use of land or buildings that is to be considered by the settlement council or development officer, or both;

(c) may provide a method for notification to the public of applications and decisions made on applications for the development or use of land or buildings;

(d) shall prescribe a system of approving applications for the development or use of land or buildings which

(i) in accordance with the by-law, shall be obtained before the development or use of the land or buildings commences;

(ii) may be used in conjunction with a permit for the construction of a building in accordance with the Uniform Building Standards Act;

(iii) may provide for a period of time for which the approval is valid and provide for the suspension, revocation or reinstatement of permits and by whom the decision is to be made on the suspension, revocation or reinstatement;

(e) may govern the nature of conditions that may be attached to an approval and who may impose them;

(f) may govern the terms and conditions of a development agreement between the settlement council and the applicant respecting the development or use of land or buildings;

(g) provide for notification to and appeals by persons resident in the settlement area who reside in the vicinity of the proposed development or use of land or buildings.

Utilities

22 A land use by-law may prohibit the development or use of land or buildings when it would otherwise be permitted under the by-law if, in the opinion of the settlement council or a person

authorized by it, satisfactory arrangements have not been made for the provision of or the supply of utilities that are necessary for the development or use, including water, gas, electricity, sewerage, drainage and road access or any of them, and the payment of the costs of installing or constructing the utility.

Appeals

23(1) A decision on an application for approval of the development or use of land or buildings may be appealed to the Tribunal by the applicant for an approval or by any person affected by the decision.

(2) An appeal under subsection (1) shall be in writing and made

(a) within 14 days of the date of publication of the notice of the decision is given in accordance with the land use by-law, or

(b) any later date that is prescribed by the settlement council either generally or with respect to a specific appeal.

Hearing

24 When an appeal under this Part is made, the Tribunal shall after giving notice to those persons that it considers to be affected by the appeal hear the appeal and shall decide the appeal as soon as is reasonably possible.

Notice

25 After hearing an appeal, the Tribunal shall, in writing

(a) confirm, vary or revoke a decision of the development officer, settlement council or substitute a decision of its own;

(b) give reasons for its decision;

(c) notify the appellant and other persons concerned in the appeal of its decision as soon as possible after it is made.

SCHEDULE 2

This schedule will contain a description of the geographic area in respect of which a settlement council will have jurisdiction.

Each of the 8 settlement areas will be described here.